

# The Regional Municipality of York

Committee of the Whole  
Finance and Administration  
November 11, 2021

Report of the Commissioner of Finance

## 2022 Development Charges Bylaw: Policy Directions

### 1. Recommendations

1. Council approve the use of the 2041 planning horizon for the 2022 Development Charges Background Study and Bylaw.
2. Council approve treating stacked townhomes as apartments for the purposes of levying development charges.
3. Council approve charging all development-charge-eligible residential dwellings that are less than 700 square feet, the small apartment rate.
4. Council approve the revisions to existing policies, shown in Attachment 1, that include:
  - a. Removal of four-storey minimum requirement in the “Development Charges Deferral for Purpose-Built Rental Buildings” policy;
  - b. Revisions to align with current legislation in the “Development Charges Deferral for Office Buildings” and “Development Charges Deferral for Open Air Motor Vehicle Storage Structures” policies, and;
  - c. The provision of a 14-day grace period under the Region’s “Development Charge Interest Policy — Under sections 26.1 and 26.2 of the *Development Charges Act, 1997*”.
5. Council approve the policies, shown as Attachment 2, which codify the existing development charges deferrals for retail buildings and high-rise residential buildings.
6. The Regional Clerk circulate this report to the local municipalities and the Building Industry and Land Development Association – York Chapter (BILD).

### 2. Summary

The Region’s 2017 Development Charges Bylaw ([2017-35](#)), as amended (“2017 Bylaw”), expires on June 16, 2022 . This report seeks Council approval of the planning horizon and key

development charges policies, in support of the Region's 2022 Development Charges Bylaw ("2022 Bylaw").

Key Points:

- As required by the *Development Charges Act, 1997* ("Act"), staff are currently preparing a development charges background study ("Background Study") to determine the rates to be set out by the new bylaw
- The update process also includes a review of the Region's development charges policies
- Staff recommend a 2041 planning horizon for the 2022 Bylaw and Background Study
- To better align with the Regional objectives to support a mix and range of housing options, staff recommend treating stacked townhouses as apartments and charging any residential dwelling, less than 700 square feet, the small apartment rate
- In addition, staff recommend removing the minimum four-storey requirement under the Region's 36-month development charges deferral for purpose-built rental buildings to facilitate more rental supply
- Staff also recommend changes to various development charges policies to reflect technical and legislative changes, including the introduction of a 14-day grace period under the Region's [Development Charge Interest Policy — Under sections 26.1 and 26.2 of the Development Charges Act, 1997](#) ("Interest Policy")

### 3. Background

#### **To continue to collect development charges, the Region must update the 2017 Bylaw prior to its expiration on June 16, 2022**

Development charges are the primary funding source for the Region's growth infrastructure, contributing about 60% of the 2021 growth-related 10-year capital plan.

The 2017 Bylaw will expire on June 16, 2022. For the Region to continue to collect development charges, the Act requires that the 2017 Bylaw be updated, and come into effect on, or before, June 17, 2022.

The 2022 Bylaw would be the first bylaw since the Province introduced the new Lands Need Assessment methodology and has been developed concurrently with the update of the Regional Official Plan and infrastructure master plans.

#### **Council endorsed a workplan for the 2022 Bylaw**

Staff initiated the bylaw update process in early 2021. This work included establishing an interdepartmental working group to ensure all deliverables necessary to inform the 2022 Bylaw are developed within the required time. Externally, this work involved engaging with stakeholders, including the local municipalities and BILD/the BILD Working Group. The BILD Working Group consists of representatives of low-rise developments, high-rise and

Industrial/Commercial/Institutional (ICI) developments as well as engineering and legal consultants.

On [June 24, 2021](#), Council endorsed the workplan for the 2022 Bylaw and Background Study, outlined in Table 1 below. The timeline included the tabling of the 2022 Bylaw and Background Study in February of 2022 with consideration of approval by Council in May. The dates and elapsed time meet all prescribed timelines under the Act.

Since Council approval of the timeline, staff have engaged Hemson Consulting Limited to provide peer review and advisory services on the 2022 Bylaw.

**Table 1**  
**Key Dates in the 2022 Bylaw Process Timeline**

Deliverables	Dates	Elapsed Time
2022 Bylaw and Background Study tabled at Committee of the Whole*	February 3, 2022	<p style="margin-left: 100px;">28 days</p> <p style="margin-left: 150px;">112 days</p>
And		
Notice of public meeting published in all local Metroland newspapers**		
Public meeting at Committee of the Whole***	March 3, 2022	
2022 Bylaw to Council for approval	May 26, 2022	
<b>2022 Bylaw and rates in effect</b>	<b>June 17, 2022</b>	

\*Note: The Background Study and Bylaw would be available upon publication of the Committee agenda, which is expected to be January 28, 2022

\*\*Note: Authority to publish notice provided in June 2021 Council report

\*\*\*Note: If a second public meeting is required, it would be held at the April 7 meeting of Committee of the Whole. Notice for the second public meeting would be issued on March 10, giving 28 days between notice and the meeting

## 4. Analysis

### 2022 BYLAW - PLANNING HORIZON

#### The 2022 Bylaw is being updated concurrently with the Regional Official Plan and infrastructure master plans

The Act requires that, through the background study, a municipality demonstrates the need for infrastructure arising from anticipated growth and development over the planning horizon of the bylaw. The Region’s 2017 Bylaw uses a planning horizon to 2031.

Currently, the Region's infrastructure master plans are being completed in coordination with the Municipal Comprehensive Review (MCR) using the Council-endorsed principle of aligning growth with infrastructure. These plans build upon previously approved master plans and the Region's capital plan. It is anticipated that the MCR, infrastructure master plans and the update of the 2022 Bylaw will be finalized concurrently in 2022.

The planning horizon of a development charges bylaw may differ from that of an Official Plan. Many of the Region's neighboring municipalities have used a shorter planning horizon for their background studies compared to their official plans.

### **A 20-year planning horizon for the 2022 Bylaw balances long term infrastructure needs and forecasting accuracy**

While the updated Regional Official Plan and infrastructure master plans will contemplate a 30-years planning horizon to 2051, staff are recommending a 20-year planning horizon to 2041 for the 2022 Bylaw. Key considerations underpinning this recommendation are:

- A planning horizon to 2041 (20 years) strikes a balance between capturing long-term infrastructure needs while mitigating the forecasting risks with a 30-year planning horizon
- The master plans that support growth to 2051 are still under development. However, project costs and timing to 2041 have been already reviewed by Council as part of budgets and previously approved master plans
- Neighbouring municipalities have not used a 30-year horizon for their development charges bylaw

Twenty years is the maximum recommended planning horizon for development charge-eligible services for the 2022 Bylaw. Where appropriate, some services may choose to use a horizon to 2031. Through regulations, transit is the only service that is limited to a 10-year planning horizon.

It is anticipated that subsequent bylaw updates could contemplate growth to 2051.

## **2022 BYLAW – DC POLICIES TO SUPPORT MIX AND RANGE OF HOUSING**

### **Development charges policy updates are proposed to align with Council's housing priorities**

As part of the update process, staff have undertaken a detailed review of all development charges policies to ensure that they align with the provincial planning framework, the Regional Official Plan update, the Act, and that they support Council's housing priorities to address a lack of affordable and rental housing options. This work on the 2022 Bylaw continues to build on Council's long history of prioritizing and supporting a mix and range of housing options, which include the following initiatives:

- Implementing a [10-year Housing and Homelessness Plan](#), [Housing Solutions: A place for everyone – Phase 2 2019 to 2023](#), [Making Ends Meet Strategy](#), and [Make Rental Happen Plan](#)
- Providing serviced land for housing supply for just over 221,000 people and a reserve of [4,000 persons to support purpose-built rental](#)
- Establishing [tax ratio of one for multi-residential property class](#)
- Adopting development charges deferral policies for [rental](#) and [affordable rental housing](#)
- [Establishing the Housing Affordability Task Force](#)

### **Treating stacked townhouses as apartments helps to facilitate more affordable ground-related built forms**

Stacked townhouses typically have three or more dwelling units, joined by common sidewalls with dwelling units entirely or partially above another. They are generally more affordable and denser than other ground-related built forms, filling a gap in the spectrum of densities and affordability needed to create complete communities.

The Region's 2017 Bylaw has four categories of residential charges: single and semi-detached dwelling, multiple-unit dwelling, large apartment, and small apartment. The differences in the rates are based on the average anticipated occupancy levels, or persons per unit, for each residential category. Stacked townhouses are charged a multiple unit dwelling rate. Staff is recommending that stacked townhomes be treated as apartments in the 2022 Bylaw for the following reasons.

Firstly, the 2022 Bylaw and Background Study uses Statistics Canada data to forecast persons per unit in each type of dwelling to determine the residential development charges rates. The proposed treatment of stacked townhouses aligns with the Statistics Canada definition of the apartment category which includes stacked townhouses.

Further, a review of over 1,500 stacked townhouses built in the Region since 2016 showed that they are more comparable to large apartments in features and size than to conventional townhouses. The average household occupancy, or persons per unit, in a typical stacked townhouse is also found to more closely resemble a large apartment. Finally, many neighbouring and local municipalities have started to treat stacked townhouses as apartments including: Peel, Toronto, Halton, Hamilton, Ottawa, Richmond Hill, East Gwillimbury, and Whitchurch-Stouffville.

### **Tiny homes of less than 700 square feet will be charged the small apartment rate to better reflect the size of this affordable built form**

Tiny homes are small, self-contained residential units built for year-round use with a living area that includes a kitchen, dining, bathroom and sleeping area. Despite their size, tiny homes must comply with the health and safety requirements of Ontario's Building Code, municipal zoning and other local bylaws. Tiny homes are an emerging, ground-related and affordable

housing option, typically costing less than \$100,000 and, required by the Building Code, must be at least 188 square feet.

Under the 2017 Bylaw, these homes would be assessed at a single-detached dwelling rate. The same would be true under the Region's local municipal DC bylaws. However, based on observed sizes across Ontario, these homes appear to be closer to, if not smaller than, small apartments.

Staff are therefore recommending that, for the 2022 Bylaw, any residential dwelling, less than 700 square feet, be charged the small apartment rate<sup>1</sup>.

### **Removal of the four-storey requirement from the 36-month development charges deferral policy for purpose-built rental buildings could help make more rental happen**

In 2017, Council approved a 36-month, interest-free, development charges deferral for purpose-built rental buildings that were a minimum of four storeys above grade. The four-storey requirement in the policy was intended to encourage high-rise purpose-built rental development across the Region.

Since that time, it was brought to staff's attention that there are limitations on building heights in certain locations. For example, developers are prohibited from meeting the minimum four-storey requirement in some heritage districts. Staff have also seen low-rise, purpose-built rental development not proceed due to inability to access the deferral due to the height requirement.

To support more purpose-built rental across the Region of any height, staff recommend removing the four-storey requirement from the 36-month development charges deferral for purpose-built rental buildings (Attachment 1). Staff also propose amending the policy to align with current legislation and other Regional development charges deferral policies and to provide clarification.

### **Changes to the Act provide further development charges exemptions for additional units in existing and new buildings**

Additional residential units, or secondary suites as they are often referred to, is a form of gentle intensification. They help to add to the rental supply and accommodate specific housing needs such as that of multi-generational families.

Bill 108, *More Homes, More Choice Act, 2019* ("Bill 108"), amended the Act by expanding development charges exemptions for additional units in existing and new buildings. Subject to restrictions, the Act now not only provides development charges exemptions for additional

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<sup>1</sup> Note: This is similar to what is provided in Mississauga and Ottawa

dwellings in, or ancillary to, existing residential buildings, but also for additional dwellings in, or ancillary to, new residential buildings. These new exemptions will be reflected in the 2022 Bylaw.

### **The 2022 Bylaw will also reflect other recent legislative changes premised upon facilitating the development of affordable housing options**

The 2022 Bylaw will also be updated to incorporate other amendments to the Act, through Bill 108 and its associated regulatory framework, which were largely premised upon facilitating affordable housing options, including rental and non-profit housing developments. Table 2 provides further details pertaining to these changes.

**Table 2**  
**Changes to be Reflected in the 2022 Bylaw**

Area	Detail
<b>Phased development charges payments*</b>	
Rental and non-profit housing **	Development charges paid in equal annual instalments over five years for rental housing and over 20 years for non-profit housing (payments begin at occupancy)
<b>Exemptions</b>	
Conversions of common areas to new units in existing rental buildings	Common areas in existing rental buildings can be converted into residential units and be exempt. Limited to additional units equivalent to the greater of 1 and 1% of existing units

\* Note: The Interest Policy provides for a 5% interest rate on developments that phase in their payments

\*\*Note: Also applies to institutional development

### **The use of the 700-square-foot threshold to delineate large and small apartments continues to be appropriate**

As part of the work on the 2017 Bylaw, Council revised the threshold to delineate large and small apartments, from 650 square feet to 700 square feet. At the time, staff also [committed](#) to reviewing this threshold as part of the work on the next development charges bylaw review.

Staff analysis, using 2016 Census and size data of close to 37,000 apartments, confirmed that a 700-square-foot threshold continues to be appropriate to delineate large and small apartments in York Region for the purposes of the 2022 Bylaw.

As part of the review, staff also examined the implications of raising the delineation point. Any substantial increase in the delineation point would also increase both the large and small

apartment rate as the average occupancy (a key driver for the rates) would be higher for both categories.

Finally, raising the delineation point to a threshold not supported by data (e.g., 850 square feet) would result in a “de facto” conflating of the two apartment categories into one, and indirectly go against precedent in *Hamilton Halton Home Builders’ Association v. The Regional Municipality of Halton*, 2016 ONSC 3807 decision, making the 2022 Bylaw vulnerable to appeal.

### **Staff also reviewed alternative residential rate structure approaches**

Staff reviewed alternative rate structure approaches for the 2022 Bylaw, including, conflating the apartment categories into one and levying a per-square-foot charge. Table 3 summarizes key considerations as to why they are not being proceeded with at this time.

**Table 3**  
**Alternative rate structures and considerations**

Alternative Structure	Considerations
Single apartment rate	<ul style="list-style-type: none"> <li>• Municipalities will be challenged to use this approach as it goes against Ontario Municipal Board and Divisional Court decision* noting issue of cross-subsidization</li> <li>• Does not reflect different draw on services resulting from significantly different average occupancy in large versus small apartments</li> </ul>
Per-square-foot charge	<ul style="list-style-type: none"> <li>• Act requires a clear link between the “increased capital costs” and “increased needs for services” resulting from growth as development charges are a cost recovery tool as opposed to a tax</li> <li>• The relationship between the size of the dwelling and the need for Regional services cannot be established</li> </ul>

\*Note: *Hamilton Halton Home Builders’ Association v. The Regional Municipality of Halton*, 2016 ONSC 3807

### **Regional development charges, as a share of new home prices, have remained relatively stable over the last decade**

Using 2012 as a base year and compared to 2021, Regional development charges, as a share of new housing prices, have remained almost unchanged, at about 4.5% averaged across all structure types. This indicates that Regional development charges do not materially impact the affordability of new housing despite increases in rates over the years.



## OTHER DEVELOPMENT CHARGES POLICIES

### Staff recommend technical amendments to the Region’s other development charges deferral policies

In addition to amending the 36-month development charges deferral policy for purpose-built rental buildings, staff are proposing amendments to the Region’s other development charges deferral policies. Table 4 summarizes these changes.

The development charges deferral policy for open air motor vehicle storage structures also includes a requirement to report back on the uptake on this policy as part of the process to update the 2017 Bylaw. Since Council approval in 2018, there have been no development charges deferrals executed under this policy.

**Table 4**  
**Summary of Amendments to Other Development Charges Deferral Policies**

Deferral Policy	Key Changes	Attachment
Office Buildings	To align with current legislation and other Regional development charges deferral policies and to provide clarification	1
Open Air Motor Vehicle Storage Structures		
Retail Buildings	Codifying existing policy	2
High Rise Residential Buildings		

### Staff recommend amending the Interest Policy to provide up to a 14-day grace period

On February 27, 2020, Council approved the [Interest Policy](#), applying to developments that freeze development charges at site plan or zoning bylaw amendment application (Section 26.2 of the Act) or those developments who phase in their development charge payments (under Section 26.1 of the Act). Under the Interest Policy, all interest is compounded annually and accrues from the date of the eligible application until the date the total accrued amount is fully paid (a 365-day calendar year is used for the purposes of prorating).

As the total accrued amount is calculated on a per diem basis, the developer is required to pay the total development charges on the prescribed date for which the interest has been calculated. If the date payable is not met, the interest must be recalculated and a new payment/cheque, with the revised amount payable, would be required.

Feedback from the local municipalities indicated that stakeholders would benefit from a grace period to address this administrative process.

Staff therefore recommend that, for those developments that have indicated they are achieving building permit status, up to a 14-day grace period be provided, for which interest is not charged. If the developer does not pay the applicable amount during that period, then interest would be recalculated to reflect the new payment date (including the number of days in the grace period), and no additional grace period would be provided. These proposed changes are shown in Attachment 1 to this report.

## 5. Financial

### Some of the recommended changes may have financial implications for the Region

Table 5 provides a summary of the financial implications of the recommended development charges policy changes.

**Table 5**

#### **Financial Implications of the Recommended Policy Changes for the Region**

<b>Recommended Changes</b>	<b>Financial Implications</b>
Treat stacked townhouses as apartments	None
Charge all development charges-eligible residential dwellings under 700 sq. ft. the small apartment rate	None
Removal of the four-story requirement from the 36-month deferral policy for purpose-built rental buildings	Possible, dependent on uptake
Technical changes to development charges deferral policies	None
Up to 14-day grace period under the Interest Policy	Possible, dependent on uptake

Note: Legislatively required changes, such as exemptions for additional residential units and conversion of common spaces in rental buildings, could result in financing costs to the Region that would largely depend on uptake

While some of the changes may have financial implications for the Region, they would also help support the Region’s objective of providing appropriate housing for all ages and stages of life and help facilitate the creation of new rental units. Staff will be closely monitoring the uptake and impacts of the proposed policy changes. The recommended changes align with the objectives of Vision 2051 and the 2019 to 2023 Strategic Plan.

## 6. Local Impact

Development charges help fund vital growth-related infrastructure that benefits all local municipalities. The policy recommendations contained herein, which reflect consultation with

local municipal finance and planning staff, benefit all nine municipalities through helping to facilitate a mix and range of housing options and by way of administrative improvements of the Region's other development charges policies.

Regional staff will continue to consult with the local municipalities throughout the process on the 2022 Bylaw and Background Study.

## 7. Conclusion

This report recommends several development-charges-related policy changes as part of the work on the 2022 Bylaw, Background Study, and associated policies.

The development of the 2022 Bylaw and Background Study will continue, working towards tabling in February 2022 with Council consideration of passage in May 2022. Once approved, the 2022 Bylaw, including the new rates, would come into effect on June 17, 2022.

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For more information on this report, please contact Edward Hankins, Director, Treasury Office and Deputy Treasurer at 1-877-464-9675 ext. 71644. Accessible formats or communication supports are available upon request.



Recommended by:

**Jason Li, CPA, CA**

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Approved for Submission:

**Bruce Macgregor**

Chief Administrative Officer

October 29, 2021

Attachments (2)

eDOCS# 13146115