

Bill 73 – An Act to amend the Development Charges Act, 1997 and the Planning Act

The following table outlines amendments proposed to the Development Charges Act, 1997, as provided in the Bill 73 as it appeared at 1st reading the Provincial House of Commons dated March 5, 2015. The table provides a description of each proposed amendment and compares that with the town submission prepared in response to questions posed in the Ministry of Municipal Affairs and Housing document dated October 24, 2013 as outlined in the report to the Planning and Development Council on January 13, 2014 from the Finance Department. The last column provides a follow up comment from the town's Financial Planning department.

Bill Sec.	Amendment (Development Charges Act, 1997)	Description	Town Response to Ministry Questions	Comment
1	Section 1 of the <i>Development Charges Act, 1997</i> is amended by adding the following definitions: “prescribed” means prescribed by the regulations; “regulations” means the regulations made under this Act.	Definitions	No comment.	No comment.
2(1)	(1) Clause 2 (2) (f) of the Act is amended by striking out “section 50 of the <i>Condominium Act</i> ” and substituting “section 9 of the <i>Condominium Act, 1998</i> ”	Technical amendment.	No comment.	No comment.
2(2)	Subsection 2 (4) of the Act is repealed and the following substituted: Ineligible services (4) A development charge by-law may not impose development charges to pay for increased capital costs required because of increased needs for a service that is prescribed as an ineligible service for the purposes of this subsection.	Subsection 2 (4), which deals with ineligible services, is rewritten to identify these in the regulations (rather than partly in the Act and partly in regulations, the current approach).	Town recommended that all growth related services be eligible for development charges funding.	Amendment partially addresses town comments by announcing waste diversion has been add to the current eligible list. Press release from Ministry of Municipal Affairs and Housing (MMAH) indicates working group will make recommendations and advise on which services should be eligible for collection of DC's.
(3)	Section 2 of the Act is amended by adding the following subsections: Area rating, prescribed areas and services (9) Despite subsection (7), a development charge by-law dealing with an area that is prescribed for the purposes of	Regulations may be made to require municipal councils to use development charge by-laws only with respect to prescribed services and areas	Town position was that the current legislation provides the flexibility needed by municipalities to develop area specific development charges	Area specific DC bylaws would be prescribed by regulation.

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	<p>this subsection and with a service that is prescribed with respect to the prescribed area for the purposes of this subsection shall apply only to the prescribed area and not to any other part of the municipality.</p> <p>Transition (10) Subsection (9) does not apply to a development charge by-law that was passed before the relevant area and the relevant service were prescribed for the purposes of that subsection.</p> <p>Area rating, prescribed municipalities, services and criteria (11) The following rules apply to a municipality that is prescribed for the purposes of this subsection: 1. With respect to a service that is prescribed for the purposes of this subsection, the council shall pass different development charge by-laws for different parts of the municipality. 2. The parts of the municipality to which different development charge by-laws are to apply shall be identified in accordance with the prescribed criteria.</p> <p>Transition (12) Subsection (11) does not apply to a development charge by-law that was passed before the municipality and the relevant service were prescribed for the purposes of that subsection.</p>	<p>(new subsection 2 (9) or to use different development charge by-laws for different parts of the municipality (new subsection 2 (11)).</p>	<p>based on specific infrastructure needs to service growth areas.</p> <p>Further, that municipalities should have the ability to determine what is best based on the specific needs of the municipality.</p>	
3	<p>Subsection 5(5) of the Act is amended by adding the following paragraph: 7.2 Transit services other than the Toronto-York subway extension.</p>	<p>Transit services are added to the list of services for which no reduction of capital costs is required in determining development charges (subsection 5 (5)).</p>	<p>The town supported adding transit to the list of services for which no reduction of capital costs is required. However, the town position was that all services should be funded 100% from development charges as discounting services does not support growth paying for growth.</p>	<p>Proposed amendments remove the mandatory discount from transit. No other services are specifically mentioned. The press release from the MMAH indicates that a Development Charges Working Group will provide input into “increase eligible costs for municipal costs beyond transit”.</p>

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4	<p>The Act is amended by adding the following section:</p> <p>Prescribed services</p> <p>Definition</p> <p>5.2 (1) In this section, “prescribed service” means a service that is prescribed for the purposes of this section.</p> <p>Provision does not apply</p> <p>(2) Paragraph 4 of subsection 5 (1) does not apply in determining the estimate for the increase in the need for a prescribed service.</p> <p>Applicable restriction</p> <p>(3) For the purposes of section 5, the estimate for the increase in the need for a prescribed service shall not exceed the planned level of service over the 10-year period immediately following the preparation of the background study required under section 10.</p> <p>Regulations</p> <p>(4) The method of estimating the planned level of service for a prescribed service and the criteria to be used in doing so may be prescribed.</p>	New section 5.2 provides that services prescribed by the regulations would use a planned level of service rather than being subject to paragraph 4 of subsection 5 (1).	Town submission requested the removal of the 10-year historic service level cap for all growth related services and indicated the calculation should be forward looking.	Proposed amendments would allow for prescribed services which will be calculated based on a 10 year future planned level of service. The prescribed services will be determined by regulation and are unknown at this time.
5	<p>(1) Subsection 10 (2) of the Act is amended by striking out “and” at the end of clause (c) and by adding the following clauses:</p> <p>(c.1) unless subsection 2 (9) or (11) applies, consideration of the use of more than one development charge by-law to reflect different needs for services in different areas;</p> <p>(c.2) an asset management plan prepared in accordance with subsection (3); and</p> <p>(2) Section 10 of the Act is amended by adding the following subsection:</p> <p>Asset management plan</p>	The requirements for development charge background studies are expanded to include consideration of the use of multiple development charge by-laws and preparation of an asset management plan (subsection 10 (2)).	There was no comment by the town on the proposed amendment to expand the background study to include an asset management plan or consider the use of more than one bylaw for different service areas.	The town budgets a transfer to reserves for infrastructure renewal for all new buildings and equipment to ensure financial sustainability throughout their life cycle. In addition to the transfer to reserves for new asset repair and replacement the annual capital levy provides a growing source of funding for infrastructure renewal and Council has directed increased funding for road pavement

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	(3) The asset management plan shall, (a) deal with all assets whose capital costs are proposed to be funded under the development charge by-law; (b) demonstrate that all the assets mentioned in clause (a) are financially sustainable over their full life cycle; (c) contain any other information that is prescribed; and (d) be prepared in the prescribed manner.			maintenance.
6	Section 26 of the Act is amended by adding the following subsection: Multiple building permits (1.1) If a development consists of one building that requires more than one building permit, the development charge for the development is payable upon the first building permit being issued.	If a development consists of one building that requires more than one building permit, the development charge is payable when the first permit is issued (new subsection 26 (1.1)).	No comment in town submission.	Impact of change unknown at this time.
7	(2) Subsection 43 (2) of the Act is repealed and the following is substituted: Requirements (2) A statement must include, for the preceding year, (a) statements of the opening and closing balances of the reserve funds and of the transactions relating to the funds; (b) statements identifying, (i) all assets whose capital costs were funded under a development charge by-law during the year, (ii) for each asset mentioned in subclause (i), the manner which any capital cost not funded under the by-law was or will be funded; (c) a statement as to compliance with subsection 59.1 (1); and (d) any other information that is prescribed. Statement available to public (2.1) The council shall ensure that the statement is made available to the public. (2) Subsection 43 (3) of the Act is amended by striking out	The contents of the treasurer's financial statement under section 43 are expanded to include additional details on the use of funds as well as a statement as to compliance with new section 59.1.	Town position was that reporting requirements were sufficient to provide the detail required to demonstrate how municipalities are spending reserves.	Town complies with current requirements. Increased requirements will require additional staff time.

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	“within 60 days after giving the statement to the council” at the end and substituting “on request”.			
8	<p>The Act is amended by adding the following section:</p> <p>No additional levies 59.1 (1) A municipality shall not impose, directly or indirectly, a charge related to a development or a requirement to construct a service related to development, except as permitted by this Act or another Act.</p> <p>Prescribed exceptions (2) Subsection (1) does not apply with respect to, (a) a prescribed class of developments; (b) a prescribed class of services related to developments; or (c) a prescribed Act or a prescribed provision of an Act.</p> <p>Exception, transition (3) Subsection (1) does not affect a charge that is imposed before the day section 8 of the <i>Smart Growth for Our Communities Act, 2015</i> comes into force.</p> <p>Power of investigation (4) The Minister of Municipal Affairs and Housing may, at any time, investigate whether a municipality has complied with subsection (1).</p> <p>Same (5) For the purposes of an investigation under subsection (4), the Minister may, (a) inquire into any or all of the municipality’s affairs, financial and otherwise; (b) require the production of any records and documents that may relate to the municipality’s affairs; (c) inspect, examine, audit and copy anything required to be produced under clause (b);</p>	New section 59.1 imposes restrictions on the use of charges related to development, gives the Minister power to investigate whether a municipality has complied with the restrictions and authorizes the Minister to require the municipality to pay the costs of the investigation.	Town submission supported the need for voluntary payments to ensure funds are available to support growth related infrastructure due to the restrictions under the Act which result in growth not paying for growth.	Town does not typically make use of voluntary payments.

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	<p>(d) require any officer of the municipality and any other person to appear before the Minister and give evidence on oath about the municipality's affair; and</p> <p>(e) hold any hearings in respect of the municipality's affairs as the Minister considers necessary or expedient.</p> <p>Application of <i>Public Inquiries Act, 2009</i> (6) Section 33 of the <i>Public Inquiries Act, 2009</i> applies to an investigation under subsection (4).</p> <p>Cost of investigation (7) The Minister may require the municipality to pay all or part of the cost of an investigation under subsection (4).</p>			
9	<p>(1) Clauses 60 (1) (c) and (d) of the Act are repealed and the following substituted: (c) prescribing services as ineligible services for the purposes of subsection 2 (4); (d) prescribing areas, and prescribing services with respect to prescribed areas, for the purposes of subsection 2 (9); (d.1) prescribing municipalities, services and criteria for the purposes of subsection 2 (11);</p> <p>(2) Subsection 60 (1) of the Act is amended by adding the following clauses: (m.3) prescribing a service, other than the Toronto-York subway extension, as a service for the purposes of section 5.2' (m.4) prescribing the method and criteria to be used to estimate the planned level of service for a service that is prescribed for the purposes of section 5.2; (o.1) prescribing information for the purposes of clause 10 (3) (c); (o.2) prescribing the manner in which an asset management</p>	Technical Amendment	No Comment	No Comment

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	<p>plan is to be prepared for the purposes of clause 10 (3) (d);</p> <p>(3) Clause 60 (1) (t) of the Act is repealed and the following substituted:</p> <p>(t) prescribing information for the purposes of clause 43 (2) (d);</p> <p>(t.1) prescribing classes of developments and classes of services related to developments for the purposes of subsection 59.1 (2);</p> <p>(t.2) prescribing Acts and provisions of Acts for the purposes of subsection 59.1 (2);</p>			
10	<p>Section 63 of the Act is amended by adding the following subsection:</p> <p>Interpretation</p> <p>(4) In this section and in sections 64, 65, and 66, references to paragraphs 1 to 7 of subsection 2 (4) shall be read as references to those provisions as they read before the day subsection 2 (2) or the <i>Smart Growth for Our Communities Act, 2015</i> comes into force.</p>	Technical Amendment	No Comment	No Comment