This unofficial consolidation shows all of the changes proposed by Schedule 3 of Bill 108, which is not in force as of May 2, 2019.

If the Bill is adopted as currently proposed, the proposed amendments to the following sections will come into force on the day that Bill 108 receives Royal Assent:

- Waste Diversion definition;
- Paragraph 6 of ss. 5(5);
- Sections 9.1 and 9.2;
- Section 60 (1) m.5;
- Section 60.1

The remainder of the proposed changes will come into force on a day to be named by the Lieutenant Governor.

Development Charges Act, 1997

S.O. 1997, CHAPTER 27

PART I
DEFINITIONS

Definitions

1 In this Act,

"area municipality" means a lower-tier municipality; ("municipalité de secteur")

"development" includes redevelopment; ("aménagement")

"development charge by-law" means a by-law made under section 2; ("règlement de redevances d'aménagement")

"front-ending agreement" means an agreement under section 44; ("accord initial")

"local board" means a local board as defined in section 1 of the *Municipal Affairs Act* other than a board as defined in subsection 1 (1) of the *Education Act*. ("conseil local")

"prescribed" means prescribed by the regulations; ("prescrit")

"regulations" means the regulations made under this Act. ("règlements") 1997, c. 27, s. 1; 2002, c. 17, Sched. F, Table; 2015, c. 26, s. 1.

"waste diversion services" means services related to waste management, but not including,

(a) landfill sites and services, and

(b) facilities and services for the incineration of waste.

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

2015, c. 26, s. 1 - 01/01/2016

PART II
DEVELOPMENT CHARGES

DEVELOPMENT CHARGES

Development charges

2 (1) The council of a municipality may by by-law impose 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. 1997, c. 27, s. 2 (1).

What development can be charged for

(2) A development charge may be imposed only for development that requires,

(a) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;

(b) the approval of a minor variance under section 45 of the *Planning Act*;

(c) a conveyance of land to which a by-law passed under subsection 50 (7) of the *Planning Act* applies;

(d) the approval of a plan of subdivision under section 51 of the *Planning Act*;

(e) a consent under section 53 of the *Planning Act*;

(f) the approval of a description under section 9 of the *Condominium Act, 1998*; or

(g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure. 1997, c. 27, s. 2 (2); 2015, c. 26, s. 2 (1); 2015, c. 28, Sched. 1, s. 148.

Same

(3) An action mentioned in clauses (2) (a) to (g) does not satisfy the requirements of subsection (2) if the only effect of the action is to,

(a) permit the enlargement of an existing dwelling unit; or

(b) permit the creation of additional dwelling units as prescribed, subject to the prescribed restrictions, in prescribed classes of existing residential buildings or prescribed structures ancillary to existing residential buildings.

Exemption for second dwelling units in new residential buildings

(3.1) The creation of a second dwelling unit in prescribed classes of proposed new residential buildings, including structures ancillary to dwellings, is, subject to the prescribed restrictions, exempt from development charges.

What services can be charged for

(4) A development charge by-law may impose development charges to pay for increased capital costs required because of increased needs only for the following services:

1. Water supply services, including distribution and treatment services.
2. Waste water services, including sewers and treatment services.
3. Storm water drainage and control services.
4. Services related to a highway as defined in subsection 1 (1) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*, as the case may be.
5. Electrical power services.
6. Policing services.
7. Fire protection services.
8. Toronto-York subway extension, as defined in subsection 5.1 (1).
9. Transit services other than the Toronto-York subway extension.
10. Waste diversion services.
11. Other services as prescribed.

~~**Same**~~

~~(3) An action mentioned in clauses (2) (a) to (g) does not satisfy the requirements of subsection (2) if the only effect of the action is to,~~

~~(a) permit the enlargement of an existing dwelling unit; or~~

~~(b) permit the creation of up to two additional dwelling units as prescribed, subject to the prescribed restrictions, in prescribed classes of existing residential buildings. 1997, c. 27, s. 2 (3).~~

~~**Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 2 (3) of the Act is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding the following clause: (See: 2016, c. 25, Sched. 1, s. 1)**~~

~~(c) permit the creation of a second dwelling unit, subject to the prescribed restrictions, in prescribed classes of proposed new residential buildings.~~

~~**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. 2015, c. 26, s. 2 (2).~~

Local services

(5) A development charge by-law may not impose development charges with respect to local services described in clauses 59 (2) (a) and (b). 1997, c. 27, s. 2 (5).

Services can be outside the municipality

(6) A development charge by-law may impose development charges with respect to services that are provided outside the municipality. 1997, c. 27, s. 2 (6).

Application of by-law

(7) A development charge by-law may apply to the entire municipality or only part of it. 1997, c. 27, s. 2 (7).

Multiple by-laws allowed

(8) More than one development charge by-law may apply to the same area. 1997, c. 27, s. 2 (8).

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 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. 2015, c. 26, s. 2 (3).

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. 2015, c. 26, s. 2 (3).

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. 2015, c. 26, s. 2 (3).

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. 2015, c. 26, s. 2 (3).

Section Amendments with date in force (d/m/y)

2015, c. 26, s. 2 (1-3) - 01/01/2016; 2015, c. 28, Sched. 1, s. 148 - 03/12/2015

2016, c. 25, Sched. 1, s. 1 - not in force

Limited exemption

3 No land, except land owned by and used for the purposes of a municipality or a board as defined in subsection 1 (1) of the *Education Act*, is exempt from a development charge by reason only that it is exempt from taxation under section 3 of the *Assessment Act*. 1997, c. 27, s. 3.

Exemption for industrial development

4 (1) If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable in respect of the enlargement is determined in accordance with this section. 1997, c. 27, s. 4 (1).

Enlargement 50 per cent or less

(2) If the gross floor area is enlarged by 50 per cent or less, the amount of the development charge in respect of the enlargement is zero. 1997, c. 27, s. 4 (2).

Enlargement more than 50 per cent

(3) If the gross floor area is enlarged by more than 50 per cent the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:

1. Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement.
2. Divide the amount determined under paragraph 1 by the amount of the enlargement. 1997, c. 27, s. 4 (3).

Determination of development charges

5 (1) The following is the method that must be used, in developing a development charge by-law, to determine the development charges that may be imposed:

1. The anticipated amount, type and location of development, for which development charges can be imposed, must be estimated.
2. The increase in the need for service attributable to the anticipated development must be estimated for each service to which the development charge by-law would relate.
3. The estimate under paragraph 2 may include an increase in need only if the council of the municipality has indicated that it intends to ensure that such an increase in need will be met. The determination as to whether a council has indicated such an intention may be governed by the regulations.

4. The estimate under paragraph 2 must not include an increase that would result in the level of service exceeding the average level of that service provided in the municipality over the 10-year period immediately preceding the preparation of the background study required under section 10. How the level of service and average level of service is determined may be governed by the regulations. ~~The estimate also must not include an increase in the need for service that relates to a time after the 10 year period immediately following the preparation of the background study unless the service is set out in subsection (5).~~

5. The increase in the need for service attributable to the anticipated development must be reduced by the part of that increase that can be met using the municipality's excess capacity, other than excess capacity that the council of the municipality has indicated an intention would be paid for by new development. How excess capacity is determined and how to determine whether a council has indicated an intention that excess capacity would be paid for by new development may be governed by the regulations.

6. The increase in the need for service must be reduced by the extent to which an increase in service to meet the increased need would benefit existing development. The extent to which an increase in service would benefit existing development may be governed by the regulations.

7. The capital costs necessary to provide the increased services must be estimated. The capital costs must be reduced by the reductions set out in subsection (2). What is included as a capital cost is set out in subsection (3). How the capital costs are estimated may be governed by the regulations.

~~8. The capital costs must be reduced by 10 per cent. This paragraph does not apply to services set out in subsection (5).~~

9. Rules must be developed to determine if a development charge is payable in any particular case and to determine the amount of the charge, subject to the limitations set out in subsection (6).

10. The rules may provide for full or partial exemptions for types of development and for the phasing in of development charges. The rules may also provide for the indexing of development charges based on the prescribed index. 1997, c. 27, s. 5 (1).

Capital costs, deductions

(2) The capital costs, determined under paragraph 7 of subsection (1), must be reduced, in accordance with the regulations, to adjust for capital grants, subsidies and other contributions made to a municipality or that the council of the municipality anticipates will be made in respect of the capital costs. 1997, c. 27, s. 5 (2).

Capital costs, inclusions

(3) The following are capital costs for the purposes of paragraph 7 of subsection (1) if they are incurred or proposed to be incurred by a municipality or a local board directly or by others on behalf of, and as authorized by, a municipality or local board:

1. Costs to acquire land or an interest in land, including a leasehold interest.
2. Costs to improve land.
3. Costs to acquire, lease, construct or improve buildings and structures.
4. Costs to acquire, lease, construct or improve facilities including,
    i. rolling stock with an estimated useful life of seven years or more,and
    ii. furniture and equipment, other than computer equipment, ~~and~~
    ~~iii. materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*.~~
5. Costs to undertake studies in connection with any of the matters referred to in paragraphs 1 to 4.
6. Costs of the development charge background study required under section 10.
7. Interest on money borrowed to pay for costs described in paragraphs 1 to 4. 1997, c. 27, s. 5 (3).

Capital costs, leases, etc.

(4) Only the capital component of costs to lease anything or to acquire a leasehold interest is included as a capital cost under subsection (3). 1997, c. 27, s. 5 (4).

Services with no percentage reduction

~~(5) The services referred to in paragraph 8 of subsection (1), for which there is no percentage reduction, are the following:~~

1. Water supply services, including distribution and treatment services.

2. Waste water services, including sewers and treatment services.

3. Storm water drainage and control services.

4. Services related to a highway as defined in subsection 1 (1) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*, as the case may be.

5. Electrical power services.

6. Police services.

Note: On a day to be named by proclamation of the Lieutenant Governor, the English version of paragraph 6 of subsection 5 (5) of the Act is repealed and the following substituted: (See: 2019, c. 1, Sched. 4, s. 14)

6. Policing.

7. Fire protection services.

7.1 Toronto-York subway extension, as defined in subsection 5.1 (1).

7.2 Transit services other than the Toronto-York subway extension.

8. Other services as prescribed. 1997, c. 27, s. 5 (5); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 12 (1); 2006, c. 33, Sched. H, s. 1; 2015, c. 26, s. 3.

Restriction on rules

(6) The rules developed under paragraph 9 of subsection (1) to determine if a development charge is payable in any particular case and to determine the amount of the charge are subject to the following restrictions:

1. The rules must be such that the total of the development charges that would be imposed upon the anticipated development is less than or equal to the capital costs determined under paragraphs 2 to 8 of subsection (1) for all the services to which the development charge by-law relates.

2. If the rules expressly identify a type of development they must not provide for the type of development to pay development charges that exceed the capital costs, determined under paragraphs 2 to 8 of subsection (1), that arise from the increase in the need for services attributable to the type of development. However, it is not necessary that the amount of the development charge for a particular development be limited to the increase in capital costs, if any, that are attributable to that particular development.

3. If the development charge by-law will exempt a type of development, phase in a development charge, or otherwise provide for a type of development to have a lower development charge than is allowed, the rules for determining development charges may not provide for any resulting shortfall to be made up through higher development charges for other development. 1997, c. 27, s. 5 (6).

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 12 (1) - 01/01/2007; 2006, c. 33, Sched. H, s. 1 - 04/05/2007

2015, c. 26, s. 3 - 01/01/2016

2018, c. 3, Sched. 5, s. 16 - no effect - see 2019, c. 1, Sched. 3, s. 5 - 26/03/2019

2019, c. 1, Sched. 4, s. 14 - not in force

Toronto-York subway extension

Definition

5.1 (1) In this section,

"Toronto-York subway extension" means an extension of the subway service located in the City of Toronto beyond its terminus at Downsview subway station further north in the City of Toronto and into The Regional Municipality of York, and works and equipment directly related to that extension. 2006, c. 33, Sched. H, s. 2.

Provision does not apply

(2) Paragraph 4 of subsection 5 (1) does not apply in determining the estimate for the increase in the need for the Toronto-York subway extension. 2006, c. 33, Sched. H, s. 2.

Applicable restriction

(3) For the purposes of section 5, the estimate for the increase in the need for the Toronto-York subway extension 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. 2006, c. 33, Sched. H, s. 2.

Regulations

(4) The method of estimating the planned level of service for the Toronto-York subway extension and the criteria to be used in doing so may be prescribed by regulation. 2006, c. 33, Sched. H, s. 2.

Section Amendments with date in force (d/m/y)

2006, c. 33, Sched. H, s. 2 - 04/05/2007

Prescribed services

Definition

5.2 (1) In this section,

"prescribed service" means a service that is prescribed for the purposes of this section. 2015, c. 26, s. 4.

Provision does not apply

(2) Paragraph 4 of subsection 5 (1) does not apply in determining the estimate for the increase in the need for a prescribed service. 2015, c. 26, s. 4.

Applicable restriction

(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. 2015, c. 26, s. 4.

Regulations

(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. 2015, c. 26, s. 4.

Section Amendments with date in force (d/m/y)

2015, c. 26, s. 4 - 01/01/2016

Contents of by-law

6 A development charge by-law must set out the following:

1. The rules developed under paragraph 9 of subsection 5 (1) for determining if a development charge is payable in any particular case and for determining the amount of the charge.
2. An express statement indicating how, if at all, the rules provide for exemptions, for the phasing in of development charges and for the indexing of development charges.
3. How the rules referred to in paragraph 1 apply to the redevelopment of land.
4. The area of the municipality to which the by-law applies. 1997, c. 27, s. 6.

Categories of services

7 (1) A development charge by-law may provide for services to be grouped into a category of services.~~A development charge by-law may provide for services to be grouped into a category of services. However, services for which there is a 10 per cent reduction under paragraph 8 of subsection 5 (1) may not be grouped with services for which there is no such reduction. 1997, c. 27, s. 7 (1).~~

Effect of categories

(2) A category of services shall be deemed to be a single service for the purposes of this Act in relation to reserve funds, the use of money from reserve funds and credits. 1997, c. 27, s. 7 (2).

Commencement of development charge by-law

8 A development charge by-law or a by-law amending it comes into force on the day it is passed or the day specified in the by-law, whichever is later. 1997, c. 27, s. 8.

Duration of development charge by-law

9 (1) Unless it expires or is repealed earlier, a development charge by-law expires five years after the day it comes into force. 1997, c. 27, s. 9 (1).

Council can pass new by-law

(2) Subsection (1) does not prevent a council from passing a new development charge by-law. 1997, c. 27, s. 9 (2).

Transitional matters respecting community benefits under *Planning Act*

By-law remains in force

9.1 (1) Despite subsection 9 (1), a development charge by-law that would expire on or after May 2, 2019 and before the prescribed date shall remain in force as it relates to the services described in subsection (3) until the earlier of,

(a) the day it is repealed;

(b) the day the municipality passes a by-law under subsection 37 (2) of the *Planning Act* as re-enacted by section 9 of Schedule 12 to the *More Homes, More Choice Act, 2019*; and

(c) the prescribed date.

By-law deemed to expire

(2) Unless it is repealed earlier, a development charge by-law that would expire on or after the prescribed date is deemed to have expired as it relates to the services described in subsection (3) on the earlier of,

(a) the day the municipality passes a by-law under subsection 37 (2) of the *Planning Act* as re-enacted by section 9 of Schedule 12 to the *More Homes, More Choice Act, 2019*; and

(b) the prescribed date.

Services

(3) The services referred to in subsections (1) and (2) are all services other than,

(a) the services set out in subsection 5 (5) as that subsection read immediately before the *More Homes, More Choice Act, 2019* received Royal Assent; and

(b) waste diversion services.

Same

(4) While it is in force, a development charge by-law referred to in subsection (2) continues to apply to the services described in subsection (3), despite subsection 2 (4).

PROCESS BEFORE PASSING BY-LAW

Background study

10 (1) Before passing a development charge by-law, the council shall complete a development charge background study. 1997, c. 27, s. 10 (1).

Same

(2) The development charge background study shall include,

(a) the estimates under paragraph 1 of subsection 5 (1) of the anticipated amount, type and location of development;

(b) the calculations under paragraphs 2 to 7~~8~~ of subsection 5 (1) for each service to which the development charge by-law would relate;

(c) an examination, for each service to which the development charge by-law would relate, of the long term capital and operating costs for capital infrastructure required for the service;

(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;

(c.2) an asset management plan prepared in accordance with subsection (3); and

(d) such other information as may be prescribed. 1997, c. 27, s. 10 (2); 2015, c. 26, s. 5 (1).

Asset management plan

(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. 2015, c. 26, s. 5 (2).

Background study to be made available

(4) The council shall ensure that a development charge background study is made available to the public at least 60 days prior to the passing of the development charge by-law and until the by-law expires or is repealed by posting the study on the website of the municipality or, if there is no such website, in the municipal office. 2015, c. 26, s. 5 (3).

Section Amendments with date in force (d/m/y)

2015, c. 26, s. 5 (1-3) - 01/01/2016

By-law within one year after study

11 A development charge by-law may only be passed within the one-year period following the completion of the development charge background study. 1997, c. 27, s. 11.

Public meeting before by-law passed

12 (1) Before passing a development charge by-law, the council shall,

(a) hold at least one public meeting;

(b) give at least 20-days notice of the meeting or meetings in accordance with the regulations; and

(c) ensure that the proposed by-law and the background study are made available to the public at least two weeks prior to the meeting or, if there is more than one meeting, prior to the first meeting. 1997, c. 27, s. 12 (1).

Making representations

(2) Any person who attends a meeting under this section may make representations relating to the proposed by-law. 1997, c. 27, s. 12 (2).

Council determination is final

(3) If a proposed by-law is changed following a meeting under this section, the council shall determine whether a further meeting under this section is necessary and such a determination is final and not subject to review by a court or the Ontario Municipal Board. 1997, c. 27, s. 12 (3).

APPEAL OF BY-LAW

Notice of by-law and time for appeal

13 (1) The clerk of a municipality that has passed a development charge by-law shall give written notice of the passing of the by-law, and of the last day for appealing the by-law, which shall be the day that is 40 days after the day the by-law is passed. 1997, c. 27, s. 13 (1).

Requirements of notice

(2) Notices required under this section must meet the requirements prescribed in the regulations and shall be given in accordance with the regulations. 1997, c. 27, s. 13 (2).

Same

(3) Every notice required under this section must be given not later than 20 days after the day the by-law is passed. 1997, c. 27, s. 13 (3).

When notice given

(4) A notice required under this section shall be deemed to have been given,

(a) if the notice is by publication in a newspaper, on the day that the publication occurs;

(b) if the notice is given by mail, on the day that the notice is mailed. 1997, c. 27, s. 13 (4).

Appeal of by-law after passed

14 Any person or organization may appeal a development charge by-law to the Ontario Municipal Board by filing with the clerk of the municipality on or before the last day for appealing the by-law, a notice of appeal setting out the objection to the by-law and the reasons supporting the objection. 1997, c. 27, s. 14.

Clerk's duties on appeal

15 (1) If the clerk of the municipality receives a notice of appeal on or before the last day for appealing a development charge by-law, the clerk shall compile a record that includes,

(a) a copy of the by-law certified by the clerk;

(b) a copy of the development charge background study;

(c) an affidavit or declaration certifying that notice of the passing of the by-law and of the last day for appealing it was given in accordance with this Act; and

(d) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed. 1997, c. 27, s. 15 (1).

Same

(2) The clerk shall forward a copy of the notice of appeal and the record to the secretary of the Ontario Municipal Board within 30 days after the last day of appeal and shall provide such other information or material as the Board may require in respect of the appeal. 1997, c. 27, s. 15 (2).

Affidavit, declaration conclusive evidence

(3) An affidavit or declaration of the clerk of a municipality that notice of the passing of the by-law and of the last day for appealing it was given in accordance with this Act is conclusive evidence of the facts stated in the affidavit or declaration. 1997, c. 27, s. 15 (3).

OMB hearing of appeal

16 (1) The Ontario Municipal Board shall hold a hearing to deal with any notice of appeal of a development charge by-law forwarded by the clerk of a municipality. 1997, c. 27, s. 16 (1).

Who to get notice

(2) The Ontario Municipal Board shall determine who shall be given notice of the hearing and in what manner. 1997, c. 27, s. 16 (2).

Powers of OMB

(3) After the hearing, the Ontario Municipal Board may,

(a) dismiss the appeal in whole or in part;

(b) order the council of the municipality to repeal or amend the by-law in accordance with the Board's order;

(c) repeal or amend the by-law in such manner as the Board may determine. 1997, c. 27, s. 16 (3).

Limitation on powers

(4) The Ontario Municipal Board may not amend or order the amendment of a by-law so as to,

(a) increase the amount of a development charge that will be payable in any particular case;

(b) remove, or reduce the scope of, an exemption;

(c) change a provision for the phasing in of development charges in such a way as to make a charge, or part of a charge, payable earlier;

(d) change the date the by-law will expire. 1997, c. 27, s. 16 (4).

Dismissal without hearing

(5) Despite subsection (1), the Ontario Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing after notifying the appellant and giving the appellant an opportunity to make representations as to the merits of the appeal. 1997, c. 27, s. 16 (5).

When OMB ordered repeals, amendments effective

17 The repeal or amendment of a development charge by-law by the Ontario Municipal Board, or by the council of a municipality pursuant to an order of the Ontario Municipal Board, shall be deemed to have come into force on the day the by-law came into force. 1997, c. 27, s. 17.

Refunds, if OMB repeals by-law, etc.

18 (1) If the Ontario Municipal Board repeals or amends a development charge by-law or orders the council of a municipality to repeal or amend a development charge by-law, the municipality shall refund,

(a) in the case of a repeal, any development charge paid under the by-law;

(b) in the case of an amendment, the difference between any development charge paid under the by-law and the development charge that would have been payable under the by-law as amended. 1997, c. 27, s. 18 (1).

When refund due

(2) If a municipality is required to make a refund under subsection (1), it shall do so,

(a) if the Ontario Municipal Board repeals or amends the by-law, within 30 days after the Board's order;

(b) if the Ontario Municipal Board orders the council of the municipality to repeal or amend the by-law, within 30 days after the repeal or amendment by the council. 1997, c. 27, s. 18 (2).

Interest

(3) The municipality shall pay interest on an amount it refunds at a rate not less than the prescribed minimum interest rate from the time the amount was paid to the municipality to the time it is refunded. 1997, c. 27, s. 18 (3).

PROCESS AND APPEALS FOR AMENDMENTS TO BY-LAWS

Application of other sections to amendments

19 (1) Sections 10 to 18 apply, with necessary modifications, to an amendment to a development charge by-law other than an amendment by, or pursuant to an order of, the Ontario Municipal Board. 1997, c. 27, s. 19 (1).

Limitation of OMB powers

(2) In an appeal of an amendment to a development charge by-law, the Ontario Municipal Board may exercise its powers only in relation to the amendment. 1997, c. 27, s. 19 (2).

COMPLAINTS ABOUT DEVELOPMENT CHARGES

Complaint to council of municipality

20 (1) A person required to pay a development charge, or the person's agent, may complain to the council of the municipality imposing the development charge that,

(a) the amount of the development charge was incorrectly determined;

(b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or

(c) there was an error in the application of the development charge by-law. 1997, c. 27, s. 20 (1).

Time limit

(2) A complaint may not be made under subsection (1) later than 90 days after the day the development charge, or any part of it, is payable. 1997, c. 27, s. 20 (2).

Form of complaint

(3) The complaint must be in writing, must state the complainant's name, the address where notice can be given to the complainant and the reasons for the complaint. 1997, c. 27, s. 20 (3).

Hearing

(4) The council shall hold a hearing into the complaint and shall give the complainant an opportunity to make representations at the hearing. 1997, c. 27, s. 20 (4).

Notice of hearing

(5) The clerk of the municipality shall mail a notice of the hearing to the complainant at least 14 days before the hearing. 1997, c. 27, s. 20 (5).

Council's powers

(6) After hearing the evidence and submissions of the complainant, the council may dismiss the complaint or rectify any incorrect determination or error that was the subject of the complaint. 1997, c. 27, s. 20 (6).

Notice of decision and time for appeal

21 (1) The clerk of the municipality shall mail to the complainant a notice of the council's decision, and of the last day for appealing the decision, which shall be the day that is 40 days after the day the decision is made. 1997, c. 27, s. 21 (1).

Requirements of notice

(2) The notice required under this section must be mailed not later than 20 days after the day the council's decision is made. 1997, c. 27, s. 21 (2).

Appeal of council's decision

22 (1) A complainant may appeal the decision of the council of the municipality to the Ontario Municipal Board by filing with the clerk of the municipality, on or before the last day for appealing the decision, a notice of appeal setting out the reasons for the appeal. 1997, c. 27, s. 22 (1).

Additional ground

(2) A complainant may also appeal to the Ontario Municipal Board if the council of the municipality does not deal with the complaint within 60 days after the complaint is made by filing with the clerk of the municipality a notice of appeal. 1997, c. 27, s. 22 (2).

Clerk's duties on appeal

23 (1) If a notice of appeal under subsection 22 (1) is filed with the clerk of the municipality on or before the last day for appealing a decision, the clerk shall compile a record that includes,

(a) a copy of the development charge by-law certified by the clerk;

(b) the original or a true copy of the complaint and all written submissions and material received in support of the complaint;

(c) a copy of the council's decision certified by the clerk; and

(d) an affidavit or declaration certifying that notice of the council's decision and of the last day for appealing it was given in accordance with this Act. 1997, c. 27, s. 23 (1).

Same

(2) If a notice of appeal under subsection 22 (2) is filed with the clerk of the municipality, the clerk shall compile a record that includes,

(a) a copy of the development charge by-law certified by the clerk; and

(b) the original or a true copy of the complaint and all written submissions and material received in support of the complaint. 1997, c. 27, s. 23 (2).

Same

(3) The clerk shall forward a copy of the notice of appeal and the record to the secretary of the Ontario Municipal Board within 30 days after the notice is received and shall provide such other information and material that the Board may require in respect of the appeal. 1997, c. 27, s. 23 (3).

OMB hearing of appeal

24 (1) The Ontario Municipal Board shall hold a hearing to deal with any notice of appeal relating to a complaint forwarded by the clerk of a municipality. 1997, c. 27, s. 24 (1).

Parties

(2) The parties to the appeal are the appellant and the municipality. 1997, c. 27, s. 24 (2).

Notice to parties

(3) The Ontario Municipal Board shall give notice of the hearing to the parties. 1997, c. 27, s. 24 (3).

Powers of OMB

(4) After the hearing, the Ontario Municipal Board may do anything that could have been done by the council of the municipality under subsection 20 (6). 1997, c. 27, s. 24 (4).

Dismissal without hearing

(5) Despite subsection (1), the Ontario Municipal Board may, where it is of the opinion that the complaint set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing after notifying the appellant and giving the appellant an opportunity to make representations as to the merits of the appeal. 1997, c. 27, s. 24 (5).

Refund if development charge reduced

25 (1) If a development charge that has already been paid is reduced by the council of a municipality under section 20 or by the Ontario Municipal Board under section 24, the municipality shall immediately refund the overpayment. 1997, c. 27, s. 25 (1).

Interest

(2) The municipality shall pay interest on an amount it refunds at a rate not less than the prescribed minimum interest rate from the time the amount was paid to the municipality to the time it is refunded. 1997, c. 27, s. 25 (2).

COLLECTION OF DEVELOPMENT CHARGES

When development charge is payable

26 (1) A development charge is payable for a development upon a building permit being issued for the development unless the development charge by-law provides otherwise under subsection (2). 1997, c. 27, s. 26 (1).

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. 2015, c. 26, s. 6.

Multiple phases

(1.2) If a development consists of two or more phases that will not be constructed concurrently and are anticipated to be completed in different years, each phase of the development is deemed to be a separate development for the purposes of this section. 2015, c. 26, s. 6.

Special case, approval of plan of subdivision

(2) A municipality may, in a development charge by-law, provide that a development charge for services set out in paragraphs 1, 2, 3, 4 or 5 of subsection 2(4) ~~5 (5)~~ for development that requires approval of a plan of subdivision under section 51 of the *Planning Act* or a consent under section 53 of the *Planning Act* and for which a subdivision agreement or consent agreement is entered into, be payable immediately upon the parties entering into the agreement. 1997, c. 27, s. 26 (2).

Agreement prevails

(3) This section does not apply in cases where there is an agreement under section 27. 1997, c. 27, s. 26 (3).

Section Amendments with date in force (d/m/y)

2015, c. 26, s. 6 - 01/01/2016

Certain types of development, when charge payable

26.1 (1) Despite section 26, a development charge in respect of any part of a development that consists of a type of development set out in subsection (2) is payable in accordance with this section.

Same

(2) The types of development referred to in subsection (1) are the following:

1. Rental housing development.
2. Institutional development.
3. Industrial development.
4. Commercial development.
5. Non-profit housing development.

Six annual instalments

(3) A development charge referred to in subsection (1) shall be paid in equal annual instalments beginning on the earlier of the date of the issuance of a permit under the *Building Code Act, 1992* authorizing occupation of the building and the date the building is first occupied, and continuing on the following five anniversaries of that date.

Amount of charge

(4) The amount of a development charge referred to in subsection (1) is the amount of the development charge determined in accordance with section 26.2, regardless of whether the by-law under which the amount of the development charge would be determined is no longer in effect on the date an instalment is payable.

Notice of occupation

(5) A person required to pay a development charge referred to in subsection (1) shall, unless the occupation of the building in respect of which the development charge is required is authorized by a permit under the *Building Code Act, 1992*, notify the municipality within five business days of the building first being occupied.

Failure to provide notice

(6) If a person described in subsection (5) fails to comply with that subsection, the development charge, including any interest payable in accordance with subsection (7), is payable immediately.

Interest

(7) A municipality may charge interest on the instalments required by subsection (3) from the date the development charge would have been payable in accordance with section 26 to the date the instalment is paid, at a rate not exceeding the prescribed maximum interest rate.

Unpaid amounts added to taxes

(8) Section 32 applies to instalments required by subsection (3) and interest charged in accordance with subsection (7), with necessary modifications.

Change in type of development

(9) If any part of a development to which this section applies is changed so that it no longer consists of a type of development set out in subsection (2), the development charge, including any interest payable, but excluding any instalments already paid in accordance with subsection (3), is payable immediately.

Transition, date charge payable

(10) This section does not apply to a development charge that becomes payable before the day subsection 8 (1) of Schedule 3 to the *More Homes, More Choice Act, 2019* comes into force.

Agreement prevails

(11) This section does not apply in cases where there is an agreement under section 27.

When amount of development charge is determined

26.2 (1) The total amount of a development charge is the amount of the development charge that would be determined under the by-law on,

(a) the day an application for an approval of development in a site plan control area under subsection 41 (4) of the *Planning Act* was made in respect of the development that is the subject of the development charge;

(b) if clause (a) does not apply, the day an application for an amendment to a by-law passed under section 34 of the *Planning Act* was made in respect of the development that is the subject of the development charge; or

(c) if neither clause (a) nor clause (b) applies,

(i) in the case of a development charge in respect of a development to which section 26.1 applies, the day the development charge would be payable in accordance with section 26 if section 26.1 did not apply, or

(ii) in the case of a development charge in respect of a development to which section 26.1 does not apply, the day the development charge is payable in accordance with section 26.

Same, if by-law not in effect

(2) Subsection (1) applies regardless of whether the by-law under which the amount of the development charge would be determined is no longer in effect on the date the development charge is payable.

Interest

(3) Where clause (1) (a) or (b) applies, the municipality may charge interest on the development charge, at a rate not exceeding the prescribed maximum interest rate, from the date of the application referred to in the applicable clause to the date the development charge is payable.

More than one application

(4) If a development was the subject of more than one application referred to in clause (1) (a) or (b), the later one is deemed to be the applicable application for the purposes of this section.

Exception, prescribed amount of time elapsed

(5) Clauses (1) (a) and (b) do not apply in respect of,

(a) any part of a development to which section 26.1 applies if, on the date the first building permit is issued for the development, more than the prescribed amount of time has elapsed since the application referred to in clause (1) (a) or (b) was approved; or

(b) any part of a development to which section 26.1 does not apply if, on the date the development charge is payable, more than the prescribed amount of time has elapsed since the application referred to in clause (1) (a) or (b) was approved.

Transition, date of application

(6) Clauses (1) (a) and (b) do not apply in the case of an application made before the day subsection 8 (1) of Schedule 3 to the *More Homes, More Choice Act, 2019* comes into force.

Transition, *Planning Act* matters

(6.1) This section does not apply to development charges that are payable under a development charge by-law that applies in accordance with paragraph 3 of subsection 37.1 (3) of the *Planning Act* or paragraph 5 of subsection 51.1 (7) of that Act.

Transition, eligible services

(6.2) Beginning on the earlier of the following dates, the total amount of a development charge for the purposes of subsection (1) shall not include the amount of a development charge in respect of a service unless the service is set out in subsection 2 (4):

1. The day the municipality passes a by-law under subsection 37 (2) of the *Planning Act* as re-enacted by section 9 of Schedule 12 to the *More Homes, More Choice Act, 2019*.

2. The date prescribed for the purposes of section 9.1.

Agreement prevails

(7) This section does not apply in cases where there is an agreement under section 27.

Agreement, early or late payment

27 (1) A municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable. 1997, c. 27, s. 27 (1).

Amount of charge payable

(2) The total amount of a development charge payable under an agreement under this section is the amount of the development charge that would be determined under the by-law on the day specified in the agreement or, if no such day is specified, at the earlier of,

(a) the time the development charge or any part of it is payable under the agreement;

(b) the time the development charge would have been payable in the absence of the agreement. 1997, c. 27, s. 27 (2).

Interest on late payments

(3) An agreement under this section may allow the municipality to charge interest, at a rate stipulated in the agreement, on that part of the development charge paid after it would otherwise be payable. 1997, c. 27, s. 27 (3).

Withholding of building permit until charge paid

28 Despite any other Act, a municipality is not required to issue a building permit for development to which a development charge applies unless the development charge has been paid. 1997, c. 27, s. 28.

Upper-tier municipalities, development charges

29 If a development charge is imposed by an upper-tier municipality on a development in an area municipality, the following apply:

1. The treasurer of the upper-tier municipality shall certify to the treasurer of the area municipality that the charge has been imposed, the amount of the charge, the manner in which the charge is to be paid and when the charge is payable.
2. The treasurer of the area municipality shall collect the charge when it is payable and shall, unless otherwise agreed by the upper-tier municipality, pay the charge to the treasurer of the upper-tier municipality on or before the 25th day of the month following the month in which the charge is received by the area municipality.
3. If the charge is collected by the upper-tier municipality, the treasurer of the upper-tier municipality shall certify to the treasurer of the area municipality that the charge has been collected. 1997, c. 27, s. 29.

If upper-tier issues building permits

30 If an upper-tier municipality issues building permits, the treasurer of each area municipality within the upper-tier municipality shall, when all development charges are paid with respect to a development in the area municipality, certify to the chief building official of the upper-tier municipality that those charges have been paid. 1997, c. 27, s. 30; 1997, c. 31, s. 146.

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 146 (1) - 01/01/1998

Agreement, upper-tier to collect charges

31 (1) If building permits are issued by an upper-tier municipality, the upper-tier municipality may agree with an area municipality to collect all the development charges on development in the area municipality. 1997, c. 27, s. 31 (1); 1997, c. 31, s. 146.

Sections 29 and 30

(2) If an agreement is made under this section, sections 29 and 30 do not apply with respect to development in the area municipality. 1997, c. 27, s. 31 (2).

Section Amendments with date in force (d/m/y)

1997, c. 31, s. 146 (1) - 01/01/1998

Unpaid charges added to taxes

32 (1) If a development charge or any part of it remains unpaid after it is payable, the amount unpaid including any interest payable in respect of it in accordance with this Act shall be added to the tax roll and shall be collected in the same manner as taxes. 1997, c. 27, s. 32 (1).

Treasurer certifies unpaid amount

(2) If a development charge or any part of it imposed by an upper-tier municipality remains unpaid after it is payable, the treasurer of the upper-tier municipality shall certify to the treasurer of the area municipality in which the land is located the amount that is unpaid. 1997, c. 27, s. 32 (2).

RESERVE FUNDS AND THE USE OF DEVELOPMENT CHARGES

Reserve funds

33 A municipality that has passed a development charge by-law shall establish a separate reserve fund for each service to which the development charge relates. 1997, c. 27, s. 33.

Development charges paid into reserve funds

34 The municipality shall pay each development charge it collects into the reserve fund or funds to which the charge relates. 1997, c. 27, s. 34.

Use of reserve funds

35 The money in a reserve fund established for a service may be spent only for capital costs determined under paragraphs 2 to 7 ~~8~~ of subsection 5 (1). 1997, c. 27, s. 35.

Municipality may borrow from reserve fund

36 Despite section 35, a municipality may borrow money from a reserve fund but if it does so, the municipality shall repay the amount used plus interest at a rate not less than the prescribed minimum interest rate. 1997, c. 27, s. 36.

Exclusions

37 (1) Subsections 418 (3) and (4) and 418.1 (14) and (15) of the *Municipal Act, 2001* and any equivalent provisions of, or made under, the *City of Toronto Act, 2006* do not apply to development charges collected by a municipality. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 12 (2); 2017, c. 10, Sched. 4, s. 2.

Limitation

(2) Development charges may not be advanced by a municipality to its capital account as interim financing of capital undertakings of the municipality, except for those capital undertakings for which the development charges may be spent under this Act. 2002, c. 17, Sched. F, Table.

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 12 (2) - 01/01/2007

2017, c. 10, Sched. 4, s. 2 - 01/03/2018

CREDITS

Credits for work

38 (1) If a municipality agrees to allow a person to perform work that relates to a service to which a development charge by-law relates, the municipality shall give the person a credit towards the development charge in accordance with the agreement. 1997, c. 27, s. 38 (1).

Amount of credits

(2) The amount of the credit is the reasonable cost of doing the work as agreed by the municipality and the person who is to be given the credit. 1997, c. 27, s. 38 (2).

Limitation: above average level of service

(3) No credit may be given for any part of the cost of work that relates to an increase in the level of service that exceeds the average level of service described in paragraph 4 of subsection 5 (1). 1997, c. 27, s. 38 (3).

Credit can be given before work completed

(4) A credit, or any part of it, may be given before the work for which the credit is given is completed. 1997, c. 27, s. 38 (4).

Credit relates to service for which work done

39 (1) A credit given in exchange for work done is a credit only in relation to the service to which the work relates. 1997, c. 27, s. 39 (1).

Credits can be divided among services

(2) If the work relates to more than one service, the credit for the work must be allocated, in the manner agreed by the municipality, among the services to which the work relates. 1997, c. 27, s. 39 (2).

Exception by agreement

(3) The municipality may agree that a credit given be in relation to another service to which the development charge by-law relates. 1997, c. 27, s. 39 (3).

Changes after credit given

(4) The municipality may agree to change a credit so that it relates to another service to which the development charge by-law relates. 1997, c. 27, s. 39 (4).

Transfer of credits

40 (1) A credit may not be transferred unless,

(a) the holder and person to whom the credit is to be transferred have agreed in writing to the transfer; and

(b) the municipality has agreed to the transfer, either in the agreement under which the holder of the credit was given the credit or subsequently. 1997, c. 27, s. 40 (1).

Transfer is by municipality

(2) The transfer of a credit is not effective until the municipality transfers it. 1997, c. 27, s. 40 (2).

When municipality must transfer credit

(3) A municipality shall transfer a credit upon being requested to do so by the holder, the person to whom the credit is to be transferred or the agent of either of them and being given proof that the conditions in subsection (1) are satisfied. 1997, c. 27, s. 40 (3).

Use of a credit

41 (1) A credit that relates to a service may be used only with respect to that part of a development charge that relates to the service. 1997, c. 27, s. 41 (1).

Use under another development charge by-law

(2) A credit given towards a development charge under a development charge by-law may be used for a development charge under another development charge by-law only if that other development charge by-law so provides. 1997, c. 27, s. 41 (2).

Used by holder or agent

(3) A credit may be used only by the holder or the holder's agent. 1997, c. 27, s. 41 (3).

MISCELLANEOUS

Registration of by-law

42 A municipality that has passed a development charge by-law may register the by-law or a certified copy of it against the land to which it applies. 1997, c. 27, s. 42.

Statement of treasurer

43 (1) The treasurer of a municipality shall each year on or before such date as the council of the municipality may direct, give the council a financial statement relating to development charge by-laws and reserve funds established under section 33. 1997, c. 27, s. 43 (1).

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 in 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. 2015, c. 26, s. 7 (1).

Statement available to public

(2.1) The council shall ensure that the statement is made available to the public. 2015, c. 26, s. 7 (1).

Copy to Minister

(3) The treasurer shall give a copy of a statement to the Minister of Municipal Affairs and Housing on request. 1997, c. 27, s. 43 (3); 2015, c. 26, s. 7 (2).

Section Amendments with date in force (d/m/y)

2015, c. 26, s. 7 (1, 2) - 01/01/2016

PART III
FRONT-ENDING AGREEMENTS

FRONT-ENDING AGREEMENTS

Front-ending agreement

44 (1) A municipality in which a development charge by-law is in force may enter into an agreement, called a front-ending agreement, that,

(a) applies with respect to work, done before or after the agreement is entered into,

(i) that relates to the provision of services for which there will be an increased need as a result of development, and

(ii) that will benefit an area of the municipality, defined in the agreement, to which the development charge by-law applies;

(b) provides for the costs of the work to be borne by one or more of the parties to the agreement; and

(c) provides for persons who, in the future, develop land within the area defined in the agreement to pay an amount to reimburse some part of the costs of the work. 1997, c. 27, s. 44 (1).

Restrictions on services covered

(2) The services to which the work relates must be services to which the development charge by-law relates and that are set out in paragraph 1, 2, 3, 4 or 5 of subsection ~~5 (5).~~2(4). 1997, c. 27, s. 44 (2).

Reimbursement restriction

(3) A front-ending agreement may provide for a person who is not a party to the agreement to pay an amount only if the person develops land and a development charge could be imposed for the development under subsections 2 (2) and (3). 1997, c. 27, s. 44 (3).

Exemption for industrial development

(4) Subsection 2 (3.1) and s~~S~~ection 4 applies, with necessary modifications, to amounts a person who is not a party to a front-ending agreement must pay under the agreement. 1997, c. 27, s. 44 (4).

"Tiering" of front end costs

(5) A front-ending agreement may provide for persons who reimburse part of the costs of the work borne by the parties to be themselves reimbursed by persons who later develop land within the area defined in the agreement. 1997, c. 27, s. 44 (5).

Person can not be reimbursed for their share

(6) A front-ending agreement must not provide for a person to be reimbursed for any part of their non-reimbursable share of the costs of the work as determined under the agreement. 1997, c. 27, s. 44 (6).

Inclusions in cost of work

(7) A front-ending agreement may provide for the following to be included in the cost of the work:

1. The reasonable costs of administering the agreement.
2. The reasonable costs of consultants and studies required to prepare the agreement. 1997, c. 27, s. 44 (7).

Contents of agreements

45 (1) A front-ending agreement must contain the following:

1. A description of the work to be done, a definition of the area of the municipality that will benefit from the work and the estimated cost of the work.
2. The proportion of the cost of the work that will be borne by each party to the agreement.
3. The method for determining the part of the costs of the work that will be reimbursed by the persons who, in the future, develop land within the area defined in the agreement.
4. The amount, or a method for determining the amount, of the non-reimbursable share of the costs of the work for the parties and for persons who reimburse parts of the costs of the work.
5. A description of the way in which amounts collected from persons to reimburse the costs of the work will be allocated. 1997, c. 27, s. 45 (1).

Other provisions allowed

(2) A front-ending agreement may contain other provisions in addition to those required under subsection (1). 1997, c. 27, s. 45 (2).

OBJECTIONS TO AGREEMENTS

Notice of agreement and time for objections

46 (1) The clerk of a municipality that has entered into a front-ending agreement shall give written notice of an agreement and of the last day for filing an objection to the agreement, which shall be the day that is 40 days after the day the agreement is made. 1997, c. 27, s. 46 (1).

Requirements of notice

(2) Notice must be given, not later than 20 days after the day the agreement is made,

(a) by mailing a notice to every owner of land within the area defined in the front-ending agreement; or

(b) by publishing a notice in a newspaper having general circulation in the municipality. 1997, c. 27, s. 46 (2).

Same

(3) A notice required under this section must explain the nature and purpose of the agreement and must indicate that the agreement can be viewed in the office of the clerk of the municipality during normal office hours. 1997, c. 27, s. 46 (3).

Agreement to be available

(4) The clerk of the municipality shall ensure that the agreement can be viewed as set out in the notice. 1997, c. 27, s. 46 (4).

Objection to agreement

47 Any owner of land within the area defined in the front-ending agreement may object to a front-ending agreement by filing with the clerk of the municipality on or before the last day for objecting to the agreement, a notice of objection setting out the objection to the agreement and the reasons supporting the objection. 1997, c. 27, s. 47.

Clerk's duties if objection

48 (1) If the clerk of the municipality receives a notice of objection on or before the last day for filing an objection, the clerk shall compile a record that includes,

(a) a copy, certified by the clerk, of every development charge by-law that applies to the area defined in the front-ending agreement;

(b) a copy of the front-ending agreement certified by the clerk;

(c) an affidavit or declaration certifying that notice of the front-ending agreement and of the last day for filing an objection to it was given in accordance with this Act. 1997, c. 27, s. 48 (1).

Same

(2) The clerk shall forward a copy of the notice of objection and the record to the secretary of the Ontario Municipal Board within 30 days after the last day for filing an objection and shall provide such other information or material as the Board may require in respect of the objection. 1997, c. 27, s. 48 (2).

Affidavit, declaration conclusive evidence

(3) An affidavit or declaration of the clerk of a municipality that notice of the front-ending agreement and of the last day for filing an objection to it was given in accordance with this Act is conclusive evidence of the facts stated in the affidavit or declaration. 1997, c. 27, s. 48 (3).

OMB hearing of objection

49 (1) The Ontario Municipal Board shall hold a hearing to deal with any notice of objection to a front-ending agreement forwarded by the clerk of a municipality. 1997, c. 27, s. 49 (1).

Powers of OMB

(2) After the hearing, the Ontario Municipal Board may,

(a) dismiss the objection in whole or in part;

(b) terminate the agreement;

(c) order that the agreement is terminated unless the parties amend it in accordance with the Board's order. 1997, c. 27, s. 49 (2).

Same

(3) If the Ontario Municipal Board terminates the agreement or makes an order under clause (2) (c), the Board may order the municipality to refund any amount paid under the agreement in excess of,

(a) if the agreement is terminated, what would have been payable under the development charge by-law; or

(b) if the agreement is amended, what would have been payable under the amended agreement. 1997, c. 27, s. 49 (3).

Effective date of amendment

(4) An amendment in accordance with an order under clause (2) (c) shall be deemed to have come into force on the day the agreement comes into force. 1997, c. 27, s. 49 (4).

Dismissal without hearing

(5) Despite subsection (1), the Ontario Municipal Board may, where it is of the opinion that the objection to the agreement set out in the notice of objection is insufficient, dismiss the objection without holding a full hearing after notifying the person filing the objection and giving that person an opportunity to make representations as to the merits of the objection. 1997, c. 27, s. 49 (5).

Objections to amendments

50 Sections 46 to 49 apply, with necessary modifications, to an amendment to a front-ending agreement other than an amendment pursuant to an order of the Ontario Municipal Board. 1997, c. 27, s. 50.

MISCELLANEOUS

When agreements in force

51 (1) A front-ending agreement comes into force on the day the agreement is made. 1997, c. 27, s. 51 (1).

If agreement terminated

(2) A front-ending agreement that is terminated by the Ontario Municipal Board shall be deemed to have never come into force. 1997, c. 27, s. 51 (2).

Application to amendments

(3) This section applies, with necessary modifications, with respect to amendments to front-ending agreements. 1997, c. 27, s. 51 (3).

Special case, certain types of development

(3.1) Despite subsections (2) and (3), an amount that is payable under subsection (1) in respect of any part of a development that consists of a type of development set out in subsection 26.1 (2) is payable in accordance with subsections 26.1 (3), (5), (6) and (9), with necessary modifications.

Transition, date of agreement

(3.2) Subsection (3.1) does not apply to an amount that is payable under subsection (1) in respect of a front-ending agreement entered into before the day section 12 of Schedule 3 to the *More Homes, More Choice Act, 2019* comes into force.

Non-parties bound by agreement

52 (1) A person who develops land within the area defined in a front-ending agreement shall pay any amount the agreement provides under clause 44 (1) (c). 1997, c. 27, s. 52 (1).

When amounts payable

(2) An amount that is payable under subsection (1) is payable upon a building permit being issued for the development unless the front-ending agreement provides for the amount to be payable on a later day or on an earlier day as allowed under subsection (3). 1997, c. 27, s. 52 (2).

Same

(3) A front-ending agreement may provide that an amount payable under subsection (1) for development that requires approval of a plan of subdivision under section 51 of the *Planning Act* or a consent under section 53 of the *Planning Act* and for which a subdivision agreement or consent agreement is entered into, be payable immediately upon the parties entering into the subdivision or consent agreement. 1997, c. 27, s. 52 (3).

Amounts paid to municipality

(4) Amounts paid under subsection (1) shall be paid to the municipality. 1997, c. 27, s. 52 (4).

Building permits withheld until amounts paid

53 If an amount is payable under a front-ending agreement by a person who develops land, no municipality shall issue a building permit for the development until the amount is paid. 1997, c. 27, s. 53.

Use of money received under an agreement

54 (1) A municipality that receives money under a front-ending agreement shall place the money in a special account. 1997, c. 27, s. 54 (1).

Use of money in special account

(2) The money in the special account shall be used, in accordance with the agreement, only for the following purposes:

1. To pay for work provided for under the agreement.
2. To reimburse those who, under the agreement, have a right to be reimbursed. 1997, c. 27, s. 54 (2).

Return of excess funds

(3) Despite subsection (2), if the municipality receives money from parties to the agreement to pay for work provided under the agreement, the municipality shall, if the agreement so provides, return to the parties any amounts that are not needed to pay for the work. 1997, c. 27, s. 54 (3).

Money held until objections disposed of

(4) If an objection to a front-ending agreement is made, the municipality shall retain any money received from persons who are not parties to the agreement until all the objections to the agreement are disposed of by the Ontario Municipal Board. If the Board makes an order that the agreement be terminated unless the parties amend it in accordance with the Board's order the municipality shall retain the money until the agreement is either terminated or amended. 1997, c. 27, s. 54 (4).

Application to amendments

(5) Subsection (4) applies with necessary modifications with respect to amendments to front-ending agreements. 1997, c. 27, s. 54 (5).

Credits

55 (1) A person is entitled to be given a credit towards a development charge for the amount of their non-reimbursable share of the costs of work under a front-ending agreement. 1997, c. 27, s. 55 (1).

Restriction on the amount

(2) If the work would result in a level of service that exceeds the average level of the service in the 10-year period immediately preceding the preparation of the background study for the development charge by-law, the amount of the credit must be reduced in the same proportion that the costs of the work that relate to a level of service that exceeds that average level of service bear to the costs of the work. Any regulations relating to the level of service and average level of service for the purposes of paragraph 4 of subsection 5 (1) also apply with necessary modifications for the purposes of this subsection. 1997, c. 27, s. 55 (2).

Credits are treated like s. 38 credits

(3) Credits under this section shall be treated, for the purposes of this Act, as though they were credits under section 38. 1997, c. 27, s. 55 (3).

Registration of agreement

56 A party to a front-ending agreement may register the agreement or a certified copy of it against the land to which it applies. 1997, c. 27, s. 56.

Notice to other tier

57 (1) An upper-tier municipality that is a party to a front-ending agreement shall, within 20 days after the agreement is made or amended, give a copy of the agreement or amendment to any area municipality that is not a party to the agreement and whose territory includes any part of the area defined in the agreement. 1997, c. 27, s. 57 (1).

Same

(2) An area municipality that is a party to a front-ending agreement shall, within 20 days after the agreement is made or amended, give a copy of the agreement or amendment to the upper-tier municipality that the area municipality is part of, if the upper-tier municipality is not a party to the agreement. 1997, c. 27, s. 57 (2).

PART IV
GENERAL

58 REPEALED: 2009, c. 33, Sched. 2, s. 24.

Section Amendments with date in force (d/m/y)

2009, c. 33, Sched. 2, s. 24 - 15/12/2009

***Planning Act*, ss. 51, 53**

59 (1) A municipality shall not, by way of a condition or agreement under section 51 or 53 of the *Planning Act*, impose directly or indirectly a charge related to a development or a requirement to construct a service related to development except as allowed in subsection (2). 1997, c. 27, s. 59 (1).

Exception for local services

(2) A condition or agreement referred to in subsection (1) may provide for,

(a) local services, related to a plan of subdivision or within the area to which the plan relates, to be installed or paid for by the owner as a condition of approval under section 51 of the *Planning Act*;

(b) local services to be installed or paid for by the owner as a condition of approval under section 53 of the *Planning Act*. 1997, c. 27, s. 59 (2).

Limitation

(3) This section does not prevent a condition or agreement under section 51 or 53 of the *Planning Act* from requiring that services be in place before development begins. 1997, c. 27, s. 59 (3).

Notice of development charges at transfer

(4) In giving approval to a draft plan of subdivision under subsection 51 (31) of the *Planning Act*, the approval authority shall use its power to impose conditions under clause 51 (25) (d) of the *Planning Act* to ensure that the persons who first purchase the subdivided land after the final approval of the plan of subdivision are informed, at the time the land is transferred, of all the development charges related to the development. 1997, c. 27, s. 59 (4).

Exception, old agreements

(5) This section does not affect a condition or agreement imposed or made under section 51 or 53 of the *Planning Act* that was in effect on November 23, 1991. 1997, c. 27, s. 59 (5).

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. 2015, c. 26, s. 8.

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. 2015, c. 26, s. 8.

Exception, transition

(3) Subsection (1) does not affect a charge that is imposed before the day section 8 of the *Smart Growth for Our Communities Act, 2015* comes into force. 2015, c. 26, s. 8.

Power of investigation

(4) The Minister of Municipal Affairs and Housing may, at any time, investigate whether a municipality has complied with subsection (1). 2015, c. 26, s. 8.

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);

(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 affairs; and

(e) hold any hearings in respect of the municipality's affairs as the Minister considers necessary or expedient. 2015, c. 26, s. 8.

Application of *Public Inquiries Act, 2009*

(6) Section 33 of the *Public Inquiries Act, 2009* applies to an investigation under subsection (4). 2015, c. 26, s. 8.

Cost of investigation

(7) The Minister may require the municipality to pay all or part of the cost of an investigation under subsection (4). 2015, c. 26, s. 8.

Section Amendments with date in force (d/m/y)

2015, c. 26, s. 8 - 01/01/2016

Regulations

60 (1) The Lieutenant Governor in Council may make regulations,

(a) defining or clarifying "gross floor area" and "existing industrial building" for the purposes of this Act;

(b) for the purposes of clause 2 (3) (b), prescribing classes of residential buildings, prescribing the maximum number of additional dwelling units for buildings in such classes, prescribing structures, prescribing restrictions and governing what constitutes a separate building;

(b.1) for the purposes of subsection 2 (3.1), prescribing classes of residential buildings, prescribing restrictions and governing what constitutes a separate building;

~~(b) for the purposes of clause 2 (3) (b), prescribing classes of residential buildings, prescribing the maximum number of additional dwelling units, not exceeding two, for buildings in such classes, prescribing restrictions and governing what constitutes a separate building;~~

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 60 (1) of the Act is amended by adding the following clause: (See: 2016, c. 25, Sched. 1, s. 2)

(b.1) for the purposes of clause 2 (3) (c), prescribing classes of residential buildings, prescribing restrictions and governing what constitutes a separate building;

(c) clarifying or defining terms used in paragraphs 1 to 7, 9 and 10 of subsection 2 (4);

(c.1) prescribing services for the purposes of paragraph 11 of subsection 2 (4);

~~(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);

(e) governing the determination as to whether the council of a municipality has indicated, for the purposes of paragraph 3 of subsection 5 (1), an intention to ensure that an increase in need for service will be met;

(f) governing the determination of the level of service and the average level of service for the purposes of paragraph 4 of subsection 5 (1);

(g) for the purposes of paragraph 5 of subsection 5 (1), governing the determination of excess capacity and whether a council has indicated an intention that excess capacity would be paid for by new development;

(h) governing the determination of the extent to which an increase in service would benefit existing development for the purposes of paragraph 6 of subsection 5 (1);

(i) governing the estimation of the capital costs for the purposes of paragraph 7 of subsection 5 (1);

(j) prescribing an index for the purpose of paragraph 10 of subsection 5 (1);

(k) governing reductions, under subsection 5 (2), to adjust for capital grants, subsidies and other contributions, including governing what are capital grants, subsidies and other contributions for the purposes of that subsection and how much the reduction shall be for such grants, subsidies and other contributions;

~~(l) clarifying or defining terms used in paragraphs 1 to 7 of subsection 5 (5);~~

~~(m) prescribing, for the purposes of paragraph 8 of subsection 5 (5), services for which there is no percentage reduction;~~

(m.1) further clarifying or defining the term “Toronto-York subway extension” in subsection 5.1 (1);

(m.2) prescribing the method and criteria to be used to estimate the planned level of service for the Toronto-York subway extension;

(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;

(m.5) prescribing a date for the purposes of section 9.1;

(n) prescribing information that must be included in a background study under section 10;

(o) defining or clarifying “operating costs” for the purposes of clause 10 (2) (c);

(o.1) prescribing information for the purposes of clause 10 (3) (c);

(o.2) prescribing the manner in which an asset management plan is to be prepared for the purposes of clause 10 (3) (d);

(p) for the purposes of clause 12 (1) (b), governing notice of meetings;

(q) for the purposes of subsection 13 (2), governing notices of the passing of development charge by-laws;

(r) requiring municipalities to keep records in respect of reserve funds and governing such records;

(s) prescribing the minimum interest rate or a method for determining the minimum interest rate that municipalities shall pay under subsections 18 (3) and 25 (2) and section 36;

(s.1) governing the types of development set out in subsection 26.1 (2);

(s.2) prescribing the maximum rate of interest for the purposes of subsections 26.1 (7) and 26.2 (3);

(s.3) prescribing the amount of time for the purposes of clauses 26.2 (5) (a) and (b);

(t) prescribing information for the purposes of clause 43 (2) (d);

(t.1) prescribing classes of developments and classes of services related to developments for the purposes of subsection 59.1 (2);

(t.2) prescribing Acts and provisions of Acts for the purposes of subsection 59.1 (2);

(u) requiring municipalities to give notice of the particulars of development charge by-laws that are in force, in the manner, and to the persons, prescribed in the regulations;

(v) requiring municipalities to prepare and distribute pamphlets to explain their development charge by-laws and governing the preparation of such pamphlets and their distribution by municipalities and others. 1997, c. 27, s. 60 (1); 2006, c. 33, Sched. H, s. 3; 2015, c. 26, s. 9.

Forms

(2) Regulations under subsection (1) may require the use of forms approved by the Minister of Municipal Affairs and Housing. 1997, c. 27, s. 60 (2).

Regulations respecting transition, 2019 amendments

60.1 The Lieutenant Governor in Council may make regulations,

- (a) setting out transitional rules dealing with matters not specifically dealt with in the amendments to this Act made by Schedule 3 to the *More Homes, More Choice Act, 2019*;

- (b) clarifying the transitional rules set out in the amendments to this Act made by Schedule 3 to the *More Homes, More Choice Act, 2019*.

Section Amendments with date in force (d/m/y)

2006, c. 33, Sched. H, s. 3 - 04/05/2007

2015, c. 26, s. 9 (1-3) - 01/01/2016

2016, c. 25, Sched. 1, s. 2 - not in force

PART V
TRANSITIONAL RULES

Interpretation

61 In this Part,

"old Act" means the *Development Charges Act* as it reads immediately before this section comes into force; ("ancienne loi")

"transition period" means the 18-month period beginning on the day this section comes into force. ("période de transition") 1997, c. 27, s. 61.

By-laws under the old Act

62 (1) This section applies with respect to a development charge by-law under the old Act. 1997, c. 27, s. 62 (1).

Continues during transition period

(2) Unless it expires or is repealed earlier, a development charge by-law continues in force until the end of the transition period and the old Act continues to apply with respect to the by-law. 1997, c. 27, s. 62 (2).

Application of old Act

(3) A municipality may, under the old Act, amend or repeal a development charge by-law with respect to which the old Act applies under subsection (2) but the municipality may not pass a new development charge by-law under that Act. 1997, c. 27, s. 62 (3).

Repeal at the end of transition period

(4) A development charge by-law under the old Act that has not already expired or been repealed expires at the end of the transition period. 1997, c. 27, s. 62 (4).

Front-ending agreement requirement

(5) For the purposes of subsection 44 (1), a development charge by-law under the old Act shall be deemed to be a development charge by-law under this Act. 1997, c. 27, s. 62 (5).

Reserve funds under the old Act

63 (1) This section applies with respect to a reserve fund under a development charge by-law under the old Act that expires or is repealed during the transition period or expires, under section 62, at the end of the transition period. 1997, c. 27, s. 63 (1).

Eligible services

(2) If a reserve fund is not for a service referred to in paragraphs 1 to 7 of subsection 2 (4) then, upon the expiry or repeal of the development charge by-law, the reserve fund shall be deemed to be a reserve fund under this Act. 1997, c. 27, s. 63 (2).

Ineligible services

(3) If a reserve fund is for a service referred to in paragraphs 1 to 7 of subsection 2 (4) then, upon the expiry or repeal of the development charge by-law, the following apply:

1. The reserve fund shall be deemed to be a general capital reserve fund for the same purpose.
2. The municipality may, at any time, allocate all the money in the fund to one or more reserve funds established under development charge by-laws under this Act.
3. Five years after the development charge by-law expires or is repealed, the municipality shall allocate any money remaining in the fund to reserve funds established under development charge by-laws under this Act or, if there are no such reserve funds, to a general capital reserve fund.
4. Despite paragraph 1, subsection 417 (4) of the *Municipal Act, 2001* and any equivalent provision of, or made under, the *City of Toronto Act, 2006* do not apply with respect to the fund. 1997, c. 27, s. 63 (3); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 12 (3).

Interpretation

(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) of the *Smart Growth for Our Communities Act, 2015* comes into force. 2015, c. 26, s. 10.

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 12 (3) - 01/01/2007

2015, c. 26, s. 10 - 01/01/2016

Credits under old section 13, ineligible services

64 (1) The following apply with respect to a development charge by-law that expires or is repealed during the transition period or expires, under section 62, at the end of the transition period:

1. Within 20 days after the expiry or repeal of the development charge by-law, the clerk of the municipality shall give written notice of the expiry or repeal of the by-law and of the last day for applying for a refund of ineligible credits given under section 13 of the old Act which shall be the day that is 80 days after the day the by-law expires or is repealed.
2. Notices required under paragraph 1 must meet the requirements prescribed in the regulations and shall be given in accordance with the regulations.
3. A notice required under paragraph 1 shall be deemed to have been given,
    i. if the notice is by publication in a newspaper, on the day that the publication occurs,
    ii. if the notice is given by mail, on the day that the notice is mailed.
4. On or before the day that is 90 days after the last day for applying for a refund of ineligible credits given under section 13 of the old Act, the municipality shall pay each holder of such a credit the full value of the credit. 1997, c. 27, s. 64 (1).

"Ineligible credit"

(2) In this section,

"ineligible credit" is a credit given under the old Act in respect of a service referred to in paragraphs 1 to 7 of subsection 2 (4) including such a credit given under the old Act as it applies under section 62. 1997, c. 27, s. 64 (2).

Credits under old section 13, eligible services

65 (1) The following apply with respect to a development charge by-law that expires or is repealed during the transition period or expires, under section 62, at the end of the transition period:

1. The holder of an eligible credit given under section 13 of the old Act is entitled to be given a credit towards a development charge under a development charge by-law under this Act of the same municipality under whose by-law the eligible credit was given.
2. A credit may only be given with respect to the service to which the eligible credit related. 1997, c. 27, s. 65 (1).

"Eligible credit"

(2) In this section,

"eligible credit" is a credit given under the old Act in respect of a service not referred to in paragraphs 1 to 7 of subsection 2 (4) including such a credit given under the old Act as it applies under section 62. 1997, c. 27, s. 65 (2).

Debt under the old Act for eligible services

66 (1) This section applies with respect to a debt, other than credits, incurred with respect to a service not referred to in paragraphs 1 to 7 of subsection 2 (4), under a development charge by-law under the old Act that expires or is repealed during the transition period or expires, under section 62, at the end of the transition period. 1997, c. 27, s. 66 (1).

Can be included as capital cost

(2) For the purposes of developing a development charge by-law, the debt may be included as a capital cost subject to any limitations or reductions in this Act or the regulations. 1997, c. 27, s. 66 (2).

Agreements to pay early or late

67 (1) This section applies with respect to an agreement under subsection 9 (4) or (8) of the old Act (early or late payment) that relates to a development charge under a development charge by-law under the old Act that expires or is repealed during the transition period or expires, under section 62 at the end of the transition period. 1997, c. 27, s. 67 (1).

Agreements continued

(2) An agreement continues in force after the development charge by-law expires or is repealed but only in respect of a development charge that was payable, in the absence of the agreement, before the development charge by-law expired or was repealed. 1997, c. 27, s. 67 (2).

Regulations, transition

68 (1) The Lieutenant Governor in Council may make regulations,

(a) governing notices for the purposes of paragraph 2 of subsection 64 (1);

(b) for the purposes of section 66, limiting the circumstances in which a debt may be included as a capital cost and prescribing reductions that shall be made if a debt is to be included as a capital cost;

(c) setting out transitional rules relating to credits given under section 14 of the old Act;

(d) setting out transitional rules relating to front-ending agreements under Part II of the old Act;

(e) setting out transitional rules dealing with matters not specifically dealt with in this Part;

(f) clarifying the transitional rules set out in this Part. 1997, c. 27, s. 68 (1).

Same

(2) Regulations under clause (1) (c) may provide for procedures to apply in relation to credits given under section 14 of the old Act and, without limiting the generality of the foregoing, such regulations may provide for appeals to the Ontario Municipal Board. 1997, c. 27, s. 68 (2).

69-72 OMITTED (AMENDS OR REPEALS OTHER ACTS). 1997, c. 27, ss. 69-72.

73 OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 1997, c. 27, s. 73.

74 OMITTED (ENACTS SHORT TITLE OF THIS ACT). 1997, c. 27, s. 74.

Français

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