

**TO:** MAYOR & COUNCILLORS

**FROM:** DEPUTY CHIEF ADMINISTRATIVE OFFICER AND CHIEF FINANCIAL OFFICER

**SUBJECT: DEVELOPMENT FUNDING PROGRAM (DFP) - DEVELOPMENT COST CHARGES (DCC) BYLAW AND AMENITY COST CHARGES (ACC) BYLAW AND RELATED BYLAWS AND BYLAW AMENDMENTS**

**PURPOSE:** To request Council approval of a new Development Cost Charges Bylaw, Amenity Cost Charges Bylaw, and related consequential bylaws and bylaw amendments.

### RECOMMENDATION

**THAT** the City Solicitor be authorized to bring forward a Development Cost Charges Bylaw (the “**New DCC Bylaw**”) to impose development cost charges substantially in the form in Attachment 1 to the report titled “Development Funding Program (DFP) - Development Cost Charges Bylaw and Amenity Cost Charges Bylaw and Related Bylaws and Bylaw Amendments” dated March 25, 2024;

**THAT** the City Solicitor be authorized to bring forward an amendment to *Burnaby Development Cost Charges Bylaw 1979* (the “**Existing DCC Bylaw Amendment**”), substantially in the form in Attachment 2 to the report;

**THAT** the City Solicitor be authorized to bring forward a bylaw to establish development cost charges reserve funds substantially in the form in Attachment 3 to the report;

**THAT** the City Solicitor be authorized to bring forward an Amenity Cost Charges Bylaw to impose amenity cost charges substantially in the form in Attachment 4 to the report;

**THAT** the City Solicitor be authorized to bring forward a bylaw substantially in the form in Attachment 5 to the report to establish a statutory amenity cost charges reserve fund; and

**THAT** after Council has given three readings to the New DCC Bylaw and Existing DCC Bylaw Amendment, staff be directed to submit the New DCC Bylaw and Existing DCC Bylaw Amendment to the Inspector of Municipalities for approval.

**EXECUTIVE SUMMARY**

At the March 12, 2024, Special Council meeting, Council reviewed and provided final approval of the Development Cost Charge (DCC) and Amenity Cost Charge (ACC) program projects and rates, and directed the City Solicitor to prepare a DCC bylaw, ACC bylaw, and related bylaws and bylaw amendments. This report presents the following proposed bylaws (the “**DFP Bylaws**”) for Council’s review and approval:

1. *Burnaby Development Cost Charges Bylaw 2024* (the “**New DCC Bylaw**”);
2. *Burnaby Development Cost Charges Bylaw 1979, Amendment Bylaw No. 1, 2024* (the “**Existing DCC Bylaw Amendment**”);
3. *Burnaby Development Cost Charges Reserve Fund Bylaw 2024* (the “**New DCC Reserve Fund Bylaw**”);
4. *Burnaby Amenity Cost Charges Bylaw 2024* (the “**ACC Bylaw**”); and
5. *Burnaby Amenity Cost Charges Reserve Fund Bylaw 2024* (the “**ACC Reserve Fund Bylaw**”).

These bylaws appear elsewhere on this Council agenda for first, second and third readings. Once Council has given three readings to the New DCC Bylaw and Existing DCC Bylaw Amendment, staff will submit both bylaws to the Inspector of Municipalities (the “**Inspector**”) for review and approval. The ACC Bylaw does not require Inspector approval. Once the City receives Inspector approval, the New DCC Bylaw, Existing DCC Bylaw Amendment and New DCC Reserve Fund Bylaw will be brought forward for final adoption. The goal is for all the DFP Bylaws to be in place before June 30, 2024.

**1.0 POLICY SECTION**

Through Bill 46-2023 – *Housing Statutes (Development Financing) Amendment Act, 2023*, the Province expanded the list of facilities for which DCCs can be imposed and also introduced a new tool, ACCs. The purpose of these tools is to help local governments finance new or expanded infrastructure and amenities necessary to service the demands of growth resulting from new development. Establishing the New DCC Bylaw and ACC Bylaw will enable the City to utilize these financing tools as part of its development funding program to facilitate sustainable delivery of growth-associated infrastructure and amenity needs.

**2.0 BACKGROUND**

In response to the suite of housing-related legislation enacted by the Province in November 2023, City staff convened the Development Funding Program (DFP) project team for the purpose of developing a DCC and ACC program to help fund the capital costs of growth-related infrastructure, amenities, and facilities. On January 25, 2024, Council received a presentation from staff and consultants as an introduction to DCCs and ACCs, including details on how each of the two programs are created, how the rates are calculated, and the purpose of the funding for growth-related capital costs.

At the February 26, 2024, Special Council meeting, Council approved draft DCC and ACC rates, and a communications strategy, with further direction to establish ACC rates for Institutional and Industrial land use categories. At the March 12, 2024, Special Council meeting, Council approved the final DCC and ACC program project lists and rates, and directed the City Solicitor to prepare a new DCC bylaw, ACC bylaw, and related consequential bylaws and bylaw amendments to implement the new DCC and ACC programs.

**3.0 GENERAL INFORMATION**

This report presents the DFP Bylaws for Council’s review and approval. The DFP Bylaws appear elsewhere on this Council agenda for first, second and third readings.

**3.1 New DCC Bylaw**

The proposed New DCC Bylaw in Attachment 1 is based on the final DCC rates and development categories (Low Density Residential, Medium Density Residential, High Density Residential, Institutional, Commercial, and Industrial) approved by Council at the March 12, 2024 Special Council meeting.

The New DCC Bylaw imposes DCCs on every person who obtains:

- (a) approval of a subdivision of land that results in two or more lots on which the Zoning Bylaw permits the construction of a Low Density Residential development;
- (b) approval of a building permit authorizing construction of a Low Density Residential development on an existing lot; or
- (c) approval of a building permit authorizing the construction of Medium Density Residential, High Density Residential, Commercial, Industrial or Institutional development on a lot.

The DCCs are payable upon approval of the subdivision or issuance of the building permit, as applicable.

The proposed New DCC Bylaw is also based on the direction provided by Council on March 12, 2024, with respect to statutory exemptions, and imposes DCCs in relation to building permits for a building that will contain fewer than four self-contained dwelling units, all of which will be put to no use other than residential use. The proposed New DCC Bylaw does not include waivers or reductions for eligible developments.

The proposed New DCC Bylaw will come into force on July 1, 2024, or the date of final adoption of the New DCC Bylaw, whichever is later, depending on when the City receives Inspector approval. Any subdivision or building permit applications that qualify under section 511 or 568 of the *Local Government Act* (“LGA”) for in-stream protection from the new DCC rates under the New DCC Bylaw would continue to be required to pay the Parkland Acquisition Levy under the City’s Existing DCC Bylaw, as further described in Section 3.2 of this report.

### 3.2 Existing DCC Bylaw Amendment

The existing *Burnaby Development Cost Charges Bylaw 1979* (the “**Existing DCC Bylaw**”) is limited in scope, and with the exception of the Parkland Acquisition Levy which applies City-wide, imposes charges that apply only to select areas of the City for a small number of projects as follows:

- Metrotown Public Open Space levy (applies only to commercial development within the Metrotown area);
- Canada Way Pedestrian Overpass levy (applies only to commercial development within the area enclosed by Canada Way, Norland Avenue, and the Trans-Canada Highway);
- Metrotown Grade-Separated Pedestrian Linkage levy (applies only to non-residential development within the Core and Public Assembly and Development sub-areas of Metrotown); and
- Edmonds Town Centre South Grade-Separated Crossing charge (applies only to residential development within the Edmonds Town Centre South Area).

It is proposed that the DCC rates for the area-specific DCCs listed above be reduced to zero, and that the associated accounts be closed once the funds have been spent for their intended purpose. Any subsequent projects in those areas that would have been funded by these DCCs will be funded through the City’s new DCC program under the New DCC Bylaw, ensuring that new development continues to pay their fair share to finance growth.

Since the New DCC Bylaw includes a charge for parkland acquisition and improvements, it is also proposed that Schedule “A” to the Existing DCC Bylaw, which sets out in the Parkland Acquisition Levy charge, be repealed. Notwithstanding the repeal of Schedule “A” to the Existing DCC Bylaw, the Parkland Acquisition Levy set out in Schedule “A” to the Existing Bylaw prior to its repeal will continue to apply to those subdivision and building permit applications that qualify under section 511 or 568 of the LGA for in-stream protection from the New DCC Bylaw . Any application which does not qualify for in-stream protection from the New DCC Bylaw would be subject to pay the parkland acquisition and improvement DCC rate under the New DCC Bylaw.

As the proposed Existing DCC Bylaw Amendment in Attachment 2 requires Inspector approval, staff intend to submit the Existing DCC Bylaw Amendment concurrently with the New DCC Bylaw to the Inspector for approval. It is proposed that the Existing DCC Bylaw Amendment come into force on the later of July 1, 2024, and the date of final adoption of the New DCC Bylaw.

### 3.3 New DCC Reserve Fund Bylaw

The final DCC program approved by Council on March 12, 2024, included DCCs for sewer, water, drainage, fire protection, transportation, and parkland acquisition and improvement. Section 566(1) of the LGA requires that a local government deposit DCCs in a separate DCC reserve fund established for each purpose for which the local government imposes the DCC. The New DCC Reserve Fund Bylaw in Attachment 3 therefore creates the following statutory reserve funds:

- (1) DCC Sewer Reserve Fund;
- (2) DCC Water Reserve Fund;
- (3) DCC Drainage Reserve Fund;
- (4) DCC Fire Protection Reserve Fund;
- (5) DCC Transportation Reserve Fund; and
- (6) DCC Parkland Acquisition and Improvements Fund.

It is proposed that the monies paid to the City under the Existing DCC Bylaw for parkland acquisition and deposited into the reserve fund created under *Burnaby Development Cost Charges Reserve Fund Bylaw 1979* be placed and continued in the DCC Parkland Acquisition and Improvements Reserve Fund to continue to be used for the purpose for which they were collected.

In accordance with subsections 566(2) and (3) of the LGA, money in the DCC reserve funds by the New DCC Reserve Fund Bylaw, together with interest on it, may be used only for the following purposes, and must be authorized by bylaw:

- (a) to pay the capital costs of projects related to the purpose for which the development cost charge was imposed;
- (b) to pay principal and interest on a debt incurred by the City as a result of an expenditure under paragraph (a); or
- (c) to pay a person subject to a development cost charge for some or all of the capital costs the person incurred in completing a project described in paragraph (a) if:
  - (i) the project was completed under an agreement between the person and the City; and
  - (ii) the project is included in the calculations used to determine the amount of that development cost charge.

Under section 569 of the LGA, before June 30 in each year, the City is required to prepare and consider a report which outlines, for each purpose for which the City imposed a DCC in the previous year: the amount of DCCs received, the expenditures from each DCC reserve fund; the balance in the DCC reserve funds at the start and end of the previous year, and the provision of any waivers and reductions. This report must be made available to the public from the time the City considers the report (i.e., before June 30 in each year) until June 30 in the following year. In addition to the legislative reporting requirements, applicable DCC information will be provided within the City’s Five-Year Financial Plan and Annual Municipal Report.

It is proposed that the New DCC Reserve Fund Bylaw come into force on the later of July 1, 2024, and the date of final adoption of the New DCC Bylaw.

**3.4 ACC Bylaw**

The proposed ACC Bylaw in Attachment 4 is based on the final ACC rates and development categories (Low Density Residential, Medium Density Residential, High Density Residential, Institutional, Commercial, and Industrial) approved by Council at the March 12, 2024, Special Council meeting. Similar to the New DCC Bylaw, the ACC Bylaw imposes ACCs on every person who obtains:

- (a) approval of a subdivision of land that results in two or more lots on which the Zoning Bylaw permits the construction of a Low Density Residential development;
- (b) approval of a building permit authorizing construction of a Low Density Residential development on an existing lot; or
- (c) approval of a building permit authorizing the construction of Medium Density Residential, High Density Residential, Commercial, Industrial or Institutional development on a lot.

ACCs are payable upon approval of the subdivision or issuance of the building permit, as applicable.

The proposed ACC Bylaw is also based on the direction provided by Council on March 12, 2024, with respect to statutory exemptions and does not include waivers or reductions for eligible developments.

As the New ACC Bylaw does not require Inspector approval, it is proposed that the New ACC Bylaw come into force on July 1, 2024. This would align with the target effective date of the proposed New DCC Bylaw, and related bylaws and bylaw amendments, which will allow for clear communication with all applicable stakeholders.

**3.5 ACC Reserve Fund Bylaw**

Section 570.8(1) of the LGA requires that a local government deposit ACCs in a separate ACC reserve fund established for each area in which development is subject to an ACC. As the final ACC program approved by Council on March 12, 2024, imposes ACCs on a City-wide basis, the New ACC Reserve Fund Bylaw in Attachment 5 creates a single statutory ACC Reserve Fund.

In accordance with subsections 570.8(2) and (3) of the LGA, money in the ACC reserve fund, together with interest on it, may be used only for the following purposes, and must be authorized by bylaw:

- (a) to pay the capital costs of projects related to the purpose for which the amenity cost charges were imposed;
- (b) to pay principal and interest on a debt incurred by the City as a result of an expenditure under paragraph (a); or
- (c) to pay a person subject to an amenity cost charge for some or all of the capital costs the person incurred in completing a project described in paragraph (a) if:
  - (i) the project was completed under an agreement referred to in section 570.9(1) of the LGA between the person and the City; and
  - (ii) the project is included in the calculations used to determine the amount of that amenity cost charge.

Under section 570.92 of the LGA, before June 30 in each year, the City is required to prepare and consider a report which outlines: the amount of ACCs received, the expenditures from the ACC reserve fund, including the expenditures made to a person or public authority under a partnering agreement; the balance in the ACC reserve fund at the start and end of the previous year, the provision of any waivers and reductions; any amenities provided, constructed, altered or expanded by a person under section 570.9 [provision of amenity instead of all or part of charge]; and any other information prescribed by regulation. This report must be made available to the public from the time the City considers the report (i.e., before June 30 in each year) until June 30 in the following year. In addition to the legislative reporting requirements, applicable ACC information will be provided within the City’s Five-Year Financial Plan and Annual Municipal Report.

It is proposed that the ACC Reserve Fund Bylaw come into force on July 1, 2024, the same day as the ACC Bylaw is proposed to come into force.

**4.0 COMMUNICATION AND COMMUNITY ENGAGEMENT**

Community engagement as approved by Council has been conducted through information sessions, media releases, and updates to the City’s website. Additional information is being provided by staff to the community as required or requested. Council has been provided with feedback from the developer engagement session held on March 6, 2024.

**5.0 FINANCIAL CONSIDERATIONS**

The approval of DCCs and ACCs will have a significant impact on the funding strategy for infrastructure and amenities required by the City of Burnaby over both the short and long term. Approval of the rates in a timely fashion is essential to ensure that development within the community coincides with the collection of funds necessary to support growth-related requirements.

Respectfully submitted,

Noreen Kassam, Deputy Chief Administrative Officer and Chief Financial Officer

**ATTACHMENTS**

- Attachment 1 – New DCC Bylaw
- Attachment 2 – Existing DCC Bylaw Amendment
- Attachment 3 – New DCC Reserve Fund Bylaw
- Attachment 4 – ACC Bylaw
- Attachment 5 – ACC Reserve Fund Bylaw

**REPORT CONTRIBUTORS**

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