

TO: MAYOR & COUNCILLORS

FROM: GENERAL MANAGER PLANNING AND DEVELOPMENT AND
DEPUTY CHIEF ADMINISTRATIVE OFFICER AND CHIEF
FINANCIAL OFFICER

SUBJECT: **DEVELOPMENT FUNDING PROGRAM (DFP) – DCC AND ACC
WAIVERS AND REDUCTIONS**

PURPOSE: To obtain Council authorization to bring forward a DCC and ACC
waivers and reductions bylaw.

RECOMMENDATION

THAT the City Solicitor be authorized to bring forward a bylaw substantially in the form shown in Attachment 1 to the report titled “Development Funding Program (DFP) – DCC and ACC Waivers and Reductions” dated July 22, 2024, with respect to waivers and reductions of development cost charges for non-market housing and not-for-profit student housing and amenity cost charges for not-for-profit student housing in accordance with Section 3.4 of the report.

THAT two (2) new regular full-time positions to support the program, as outlined in Section 5.0 of the report, be authorized.

EXECUTIVE SUMMARY

Legislation governing Development Cost Charges (DCCs) and Amenity Cost Charges (ACCs) provides a framework for municipalities to permit the reduction or waiver of charges imposed on development in the City. The *Local Government Act* (LGA) provides certain statutory exemptions for both DCCs and ACCs, and otherwise prohibits local governments from providing assistance by waiving or reducing DCCs or ACCs except for specific “eligible developments” through a specific waivers or reductions bylaw. It is important to note that legislative regulations and guidelines are fluid and are subject to change; on June 19, 2024, the Province enacted a new regulation to prescribe specific classes of affordable housing that are exempt from ACCs.

This report outlines a recommended Development Cost Charge (DCC) and Amenity Cost Charge (ACC) waivers and reductions approach for non-market housing and not-for-profit student housing, including a draft bylaw to implement this approach.

1.0 POLICY SECTION

The following report aligns with provincial and municipal laws, bylaws, and policies including:

- *Local Government Act* (2015)
- *Community Charter* (2003)
- Corporate Strategic Plan (2022)
- Burnaby Official Community Plan (1998)
- Burnaby Housing Needs Report (2021)
- Burnaby Zoning Bylaw (1965)
- Subdivision Control Bylaw (1971)
- Building Bylaw (2016)

2.0 BACKGROUND

On May 27, 2024, at a special meeting of open Council a motion was passed directing staff to proceed with the development cost charges and amenity cost charge waivers and reductions, as detailed in Option # 3 of that report, which included non-market rental and not-for-profit student housing.

This report outlines a recommended Development Cost Charge (DCC) and Amenity Cost Charge (ACC) waivers and reductions approach for non-market housing and not-for-profit student housing, and recommends that Council authorize the City Solicitor to bring forward a bylaw with respect to waivers and reductions of DCCs for the development of new non-market housing and of DCCs and ACCs for new not-for-profit student housing within the City.

3.0 GENERAL INFORMATION

As noted in the report titled “Development Funding Program (DFP) – Development Cost Charges and Amenity Cost Charges Waivers and Reductions Options” and dated May 27, 2024, the *Local Government Act* (“LGA”):

- sets out statutory exemptions for DCCs and identifies specific exemptions for which the City may by bylaw vary the threshold applicable to those exemptions;
- sets out statutory exemptions for ACCs; and
- sets out the requirements for implementing waivers or reductions for DCCs and ACCs.

According to the Interim Guidance on DCCs and ACCs published by the Province, local governments will need to use other revenue sources to make up for the loss of DCC and ACC revenue from exempted units, as charges cannot be increased on other forms of development to offset the exemptions.

3.1 Statutory Exemptions

3.1.1 DCCs

Under Section 561 of the LGA, DCCs are not payable in the following circumstances:

- The construction, alteration or extension of places of public worship;
- Where DCCs have been charged previously, unless as a result of further development there will be new capital cost burdens;
- Development does not impose new capital cost burdens;
- Development that contains fewer than four self-contained residential dwelling units, except where a local government provides in its DCC bylaw that DCCs are payable for this type of development¹;
- The construction, alteration, or extension of self-contained residential dwelling units no larger in area than 29 m² (323 sq ft.) provided that a local government may, in its DCC bylaw, establish a greater threshold area; and
- The value of the construction does not exceed \$50,000, provided that a local government may, in its DCC bylaw, establish a higher threshold amount.

3.1.2 ACCs

Under Section 570.4 of the LGA, ACCs are not payable in the following circumstances:

- The construction, alteration or extension of places of public worship;
- If no increase in the population of residents or workers is expected to result from the development;
- Where an ACC has previously been paid for the same development;
- For any affordable and special needs housing units that are required under an affordable and special needs housing zoning bylaw under Section 482.7(1) of the LGA (i.e., any affordable and special needs housing units required under an inclusionary zoning bylaw);
- Where a DCC may otherwise be imposed to pay for the capital cost of infrastructure; and
- For the development of any class of affordable housing as prescribed by the Province by regulation.

The ACC exemption under Section 570.4 of the LGA for affordable and special needs housing required under an inclusionary zoning bylaw does not apply to the

¹ *Burnaby Development Cost Charges Bylaw 2024*, which was adopted by Council on June 24, 2024, imposes DCCs on developments that contain fewer than four self-contained residential dwelling units.

City's Rental Use Zoning Policy ("RUZP") inclusionary units (although the ACC Affordable Housing Exemption Regulation, described below, may apply) because the City's current Zoning Bylaw and RUZP framework relies on an applicant to have a rezoning bylaw approved by Council. The exemption will apply if and when the City transitions the RUZP inclusionary units to a mandatory development requirement under an inclusionary zoning bylaw.

On June 19, 2024, the Province enacted the *Prescribed Classes of Affordable Housing (Local Government Act) Regulation* (the "**ACC Affordable Housing Exemption Regulation**") to prescribe specific classes of affordable housing that are exempt from ACCs. Under the ACC Affordable Housing Exemption Regulation, the following classes of affordable housing are exempt from ACCs:

- (a) rental units that will be owned or leased by an applicable entity, and operated by an applicable entity;
- (b) supportive housing units that will be owned or leased by an applicable entity, operated by an applicable entity, and provided to seniors, persons with disabilities, persons experiencing or at risk of experiencing homelessness, or other individuals who, based on criteria set by the applicable entity that operates the units, will benefit from on-site supports and services;
- (c) cooperative housing;
- (d) housing that will be provided to members of a federal non-profit cooperative;
- (e) transitional housing that will be provided on a temporary basis, by a person that receives funding from the federal or provincial government, a municipality or regional district for the purpose of providing the accommodation, and as part of a program intended to assist individuals to become better able to live independently; and
- (f) emergency shelter that will be provided by a person that receives funding from the federal or provincial government, a municipality or a regional district for the purpose of providing the accommodation, and used to provide temporary accommodation, without charge, to individuals who are in need of such accommodation.

An "applicable entity" is defined under the ACC Affordable Housing Exemption Regulation as any of the following:

- (a) the Provincial government or an agent of the Provincial government;
- (b) the government of Canada or an agent of the government of Canada;
- (c) a municipality;
- (d) a regional district;
- (e) a corporation incorporated by, or in which shares have been acquired by, a municipality or regional district for a purpose that includes providing affordable housing (i.e., municipal corporations);
- (f) a First Nation;

- (g) an applicable recipient (e.g. a society, regional health board, registered charity, or not-for-profit corporation), if the applicable recipient has received funding from one or more of the entities in paragraphs (a) to (f) for the purpose of building affordable housing; or
- (h) an applicable recipient (e.g. a society, regional health board, registered charity, or not-for-profit corporation), if the applicable recipient:
 - i. has entered into a housing agreement under section 483 of the LGA, or
 - ii. has entered into a Section 219 Covenant to limit the use of the land to that of affordable housing.

Under the ACC Affordable Housing Exemption Regulation, inclusionary units provided under the City's RUZP that are owned or leased by an applicable entity and operated by an applicable entity would be exempt from ACCs.

3.2 Waivers/Reductions

3.2.1 DCCs

Section 563 of the LGA sets out the following classes of "eligible development" for which a local government may, by bylaw, waive or reduce DCCs:

- Not-for-profit rental housing, including supportive living housing;
- For-profit affordable rental housing;
- Subdivision of small lots designed to result in low greenhouse gas emissions; and
- Development designed to result in a low environmental impact.

To implement one or more of these waivers or reductions, Council must adopt a DCC waivers and reductions bylaw that establishes what constitutes an eligible development or a class of eligible development, corresponding rates of reduction (which may be different for different categories of eligible development), any requirements that must be met to obtain a waiver or reduction, and the conditions on which a waiver or reduction may be granted. It is up to each community to define what it means by "affordable."

It is entirely at the discretion of Council to provide DCC waivers or reductions. However, as noted in the provincial DCC Best Practices Guide, "the intent of the legislation is that in cases where the DCC is waived or reduced, the amount waived is to be entirely supported by the existing development." Therefore, any amount waived or reduced must still be paid for and the monies required shall come from non-DCC sources (e.g., utility rates, general taxation, etc.).

3.2.2 ACCs

Section 570.6 of the LGA sets out the following classes of "eligible development" for which a local government may, by bylaw, waive or reduce ACCs:

- Not-for-profit rental housing, including supportive living housing;
- For-profit affordable rental housing; and
- Housing that is subject to requirements under an affordable and special needs housing zoning bylaw (i.e., housing that is subject to the requirements of an inclusionary zoning bylaw).

To implement waivers or reductions for ACCs, Council must adopt an ACC waivers and reductions bylaw that establishes what constitutes an eligible development or a class of eligible development, the corresponding rates of reduction (which may be different for different categories of eligible development), any requirements that must be met in order to obtain a waiver or reduction, and the conditions on which a waiver or reduction may be granted.

3.3 Waivers/Reductions Regional Survey

A review of communities in the Metro Vancouver region, school, and regional DCC programs that currently provide waivers or reductions was conducted to provide a comparison of different approaches to waivers and reductions. The study included Chilliwack, Delta, Township of Langley, City of North Vancouver, Port Moody, Surrey, Vancouver, School Site Acquisition, Greater Vancouver Water District, Greater Vancouver Sewerage and Drainage District, and TransLink. The key findings include the following:

- Waivers and reductions offered by municipalities in the Metro Vancouver region for affordable housing range from 25-100% based on the level of affordability being achieved.
- Most municipalities that have a waivers and reductions bylaw in place fully waive DCCs for not-for-profit rental housing.
- Typically, there is some form of threshold in place. For example, DCCs are waived for all units in a development if at least 30% of the units are occupied by an “eligible household” as defined in a municipality’s waivers and reductions bylaw.
- In municipalities where there is student housing, this form of housing is typically provided a 50% reduction.

3.4 Proposed Waivers and Reductions Approach

On May 27, 2024, Council passed a motion to pursue Option 3 – General Waivers and Reductions to provide general waivers and reductions based on a set of criteria.

As the Province has through the ACC Affordable Housing Exemption Regulation exempted the classes of affordable housing described under section 3.1.2 of this report from payment of ACCs, staff do not propose to address waivers and reductions of ACCs

for non-market housing in a waivers and reductions bylaw. It is proposed that the City provide the following DCC and ACC waivers and reductions:

- a 100% waiver of DCC charges for voluntary non-market housing units that fall within one of the classes of affordable housing prescribed under the ACC Affordable Housing Exemption Regulation; and
- a 50% reduction of ACC and DCC charges for not-for-profit student housing that is leased to or owned by BCIT or SFU. This would apply to both dormitory units and self-contained dwelling units located on campus and off campus. BCIT and SFU would be required to enter into a Housing Agreement and Section 219 Housing Covenant with the City to ensure that the use of the units is restricted for a period of 60 years for the purpose of providing rental housing for students attending the school, that the housing will be operated by the school, and will be operated on a cost-recovery basis.

Since developments that provide inclusionary non-market units under the RUZP are currently provided additional density (offset), it is recommended that RUZP inclusionary non-market units not be eligible for any DCC waivers or reductions (regardless of whether those non-market housing units are owned or leased, and operated by an applicable entity as defined under the ACC Affordable Housing Exemption Regulation). Furthermore, as any loss of DCC and ACC revenue from waivers and reductions must be funded from other revenue sources, such as tax revenues or other eligible sources, it is recommended that DCC and ACC waivers and reductions be limited to the above-noted categories of eligible developments to ensure there are sufficient funds to offset the waivers and reductions.

Staff considered but have not recommended waivers and reductions for rental suites in small-scale multi unit housing as this would be inequitable given that waivers and reductions are not recommended for other purpose-built market rental housing units. It is noted that under the recent ACC and DCC bylaws, secondary suites within a Single or Two-Family Dwellings are considered part of the primary dwelling unit, and thus are not separately charged ACCs and DCCs (but are accounted for in the per primary dwelling rate for ACCs and DCCs for low density residential development). Under the recent ACC and DCC bylaws, in the circumstance where more than two primary dwelling units are constructed on a lot, all units including rental suites are charged ACCs and DCCs at the medium density residential rate. This may discourage the development of accessory rental suites, especially in small scale multi-unit housing. Therefore, as part of exercising this option, staff propose a future amendment to the DCC and ACC bylaws to allow for any accessory rental that forms part of a primary dwelling unit, including secondary suites and flex units, not to be charged additional ACC and DCC rates.

If Council supports the DCC and ACC waivers and reductions approach set out above, then staff recommend that Council authorize the City Solicitor to bring forward a Waivers and Reductions of Amenity Cost Charges and Development Cost Charges Bylaw substantially in the form set out in Attachment 1 to this report.

4.0 COMMUNICATION AND COMMUNITY ENGAGEMENT

The City has been conducting regular and updated communication to the community and interested parties related to the new DCC and ACC programs. Any waivers or reductions approved by Council will be communicated through existing communication channels.

5.0 FINANCIAL CONSIDERATIONS

The set DCC and ACC rates have been established based on technical inputs and calculations which take into account many factors associated with each program's underlying projects. The use of waivers and reductions does not decrease the total funds required for the City's growing infrastructure and amenity needs. Rather, any statutory exemptions and waivers or reductions provided by the City must be funded through other eligible funding sources. It is likely that tax revenue would be required to take the place of any revenue lost through exemptions and waivers or reductions which would affect the total tax draw and rates.

The estimated annual capital expenditure for waivers and reductions of DCCs, based on the approval of approximately 200 apartment units of voluntary non-market housing units per year and an average of 10 student housing units per year, would be approximately \$5,198,800. The estimated annual capital expenditure for mandatory ACC exemptions based on 200 voluntary non-market housing units per year, would be approximately \$2,696,200. It is noted that amounts may fluctuate from year to year, including student housing which is less frequently developed. Also less frequently developed are supportive housing developments, with two developments and a total of 95 units constructed in the past five years, and cooperative housing, which has not been developed in the past 20 years.

Council may elect to continue its past practice of issuing Housing Grants to assist non-market housing operators/developers with the capital costs of development, including City fees and charges, which would require that sufficient funds exist. A further report related to non-profit led Housing Grants will be brought forward to a future Council meeting, subsequent to the adoption of a DCC and ACC waivers and reductions bylaw by Council.

The staffing required to support the tasks related to the City's DCC and ACC collections is being requested to ensure quick and accurate delivery of City services based on an increased volume of fees and charges related to development case management. Upon adoption of the DCC and ACC bylaws, these new fees will apply to all development case types for which a building permit or subdivision occurs, where in the current DCC program, only a portion of cases triggered DCC and related fee collection. Given the pending commencement of new City of Burnaby charges, plus updated rates from Metro Vancouver and TransLink, calculation and collection of DCCs has become ever more complex, thus requiring dedicated staff to oversee and support the function. From understanding what projects are in stream, to analyzing differences in rate application

between various bylaws, the need for internal expertise to ensure completeness and consistency in DCC collection is significantly greater than in prior years. Even when the application is for a one to one replacement for a single-family home, the capture of the fee and credit is required to maintain audit standards and controls.

The requested regular full-time additions include the following:

Planning and Development Department

Planning and Development Department staff will be responsible for invoicing, collection and management of the new fees. The department is also responsible for communication of the fees, including considerable time spent communicating with individual applicants about the program and how the new fees apply to their project. Invoicing, collecting, and managing development fees will become a larger component of development application file management. Planning and Development, Building Division is requesting an RFT Clerk 3 position to manage the new volume of work. This new Clerk 3 position will complement a second Clerk 3 position that is being repurposed to support program delivery.

Finance Department

The Finance Department, Revenue Services Division, requires one new RFT Clerk 3 position to supplement the current support function provided to Planning and Development. The new position will create team capacity, allowing greater availability of staff to assist in the management and collection of fees in partnership with Planning and Development. The new position will also assist in the provision of mandated DCC reporting to 3rd parties.

Respectfully submitted,

E.W. Kozak, General Manager Planning and Development and

Noreen Kassam, Deputy Chief Administrative Officer and Chief Financial Officer

ATTACHMENTS

Attachment 1 – Burnaby Waivers and Reductions of Amenity Cost Charges and Development Cost Charges Bylaw

REPORT CONTRIBUTORS

This report was prepared by Johannes Schumann, Director Community Planning, Doug Spindler, Director Treasury Services, and Geoffrey Mooney, Finance Functional Lead; and reviewed by Jennifer Wong, Assistant City Solicitor, Carl Isaak, Director Neighbourhood Planning and Urban Design, and Lee-Ann Garnett, Deputy General Manager Planning and Development.