

TO: MAYOR & COUNCILLORS
FROM: CHIEF ADMINISTRATIVE OFFICER
SUBJECT: **PROPOSED DEVELOPMENT FINANCING AMENDMENTS**
PURPOSE: To inform Council on recent correspondence submitted to the Province related to proposed amendments to legislated Development Finance Tools.

RECOMMENDATION

THAT the report titled “Proposed Development Financing Amendments”, dated April 8, 2025, be received for information; and

THAT a copy of this report be forwarded to all Metro Vancouver member municipalities requesting that they submit similar requests directly to the Province of British Columbia.

1.0 POLICY SECTION

The proposed amendments to the Zoning Bylaw generally align with the following provincial and municipal laws, bylaws and policies, including:

- *Local Government Act* (2015)
- *Community Charter* (2003)
- Corporate Strategic Plan (2022)
- Burnaby Housing Needs Report (2021)
- HOME: Burnaby’s Housing and Homelessness Strategy (2021)
- Burnaby Official Community Plan (1998)
- Burnaby Zoning Bylaw (1965)

2.0 BACKGROUND

2.1 Bills 44, 46, 47 (2023)

On November 30, 2023, the Province of BC granted Royal Assent to Bills 44, 46 and 47.

Bill 44 – (Residential Development) related to the following subjects:

- Prohibition on public hearings for applications that are predominantly residential.
- Alignment between housing needs reports, Official Community Plans and Zoning Bylaws.
- Small Scale Multi-Unit Housing (3-6 units) on single residential lots.

Bill 46 – (Development Financing) related to the following subjects:

- New amenity cost charge (ACC).
- Amendments to development cost charges (DCC).

Bill 47 – (Transit-Oriented Areas):

- Mandates specific densities through regulation to be accommodated within specific distances of transit-oriented areas.

In response, as required by the Province, the City has adopted amendments to the Burnaby Zoning Bylaw to create the R1 Small Scale Multi-Unit District (June 24, 2024); have adopted a new ACC fee and updated DCC fees to fund projected growth (June 24, 2024); have adopted a Transit Oriented Area Designation Bylaw (June 24, 2024); completed the Interim Housing Needs Report update (November 4, 2024); and are well under way on updates to the OCP and Zoning Bylaw.

2.2 Bill 16 (2024)

On April 25, 2024, the Province granted Royal Assent to Bill 16 – Housing Statutes Amendment Act, 2024 related to the following subjects:

- Tenant Protection
- Density Benefit Zoning
- Zoning for Affordable/Special Needs Housing
- Works and Services Bylaws
- Transportation Demand Management

In response, the City has adopted amendments to the Subdivision Control and Servicing Bylaw (August 26, 2024) and initiated work on a new Works and Services Bylaw; advanced interim Transportation Demand Management (TDM) policy and initiated a new TDM Bylaw; initiated a new Inclusionary Rental Bylaw; and initiated a new Community Benefit Bonus Bylaw as part of ongoing interim updates to the Burnaby Zoning Bylaw.

3.0 GENERAL INFORMATION

At the time Bills 44, 46, 47 (2023) and Bill 16 (2024) were given Royal Assent, the state of the economy, the real-estate market, and the inflationary cost of construction was concerning, and has not substantively improved to date, making both market and non-market residential development extremely challenging. The immediacy with which Small-Scale Multi-Unit Housing (SSMUH) and Transit Oriented Areas (TOAs) came into force necessitated local governments, like Burnaby, to rapidly update development finance and site servicing frameworks to ensure that there was a sufficient mechanism to fund the increased demand for services and amenities outside of excessive taxation. As a result of the compressed timeframe to advance development finance changes, the full impact these changes would have on the cost of housing and the broader viability of the housing market in Burnaby was unknown. As the City is approaching the one-year anniversary of Burnaby's ACC, DCC and Servicing Bylaw adoptions, in-stream

developments are adversely affected by the potential of significant additional costs that were not contemplated at the outset of their projects, and many have indicated that they are unable to complete their projects within the one-year in-stream timeframe due to the aforementioned challenging market conditions.

As such, City staff have advanced a letter to the Ministry of Housing and Municipal Affairs proposing a series of minor amendments to Provincial regulations, to mitigate the impacts of development cost increases, while continuing to protect the City from the unsustainable tax burden that would result from absorbing servicing and amenity costs as part of a standard capital budget.

1. Phasing in of ACC and DCC Rates

While it is acknowledged that local governments are able to phase in ACC and DCC rates, the percentage attributed to the growth-related benefit factor paid by development would become the responsibility of the local government during this period, which creates an immediate taxation burden. As an illustration, with a benefit factor attributed to 50% growth and 50% existing population, if ACC and DCC rates were phased in over 4 years (Year 1 - 25%, Year 2 - 50%, Year 3 - 75%, Year 4 - 100% of the total charge), the City would have to increase the Municipal Assist Factor to compensate for each year's deficit. Given our current tax burden, this is unsustainable even in the short term.

Proposal

It is proposed that the Ministry of Housing and Municipal Affairs and Inspector Municipalities permit by regulation that DCC and ACC rates be phased in over a number of years without requiring an increase to the Municipal Assist Factor, and that as a result the horizon date be extended beyond the 25 years to account for the pro-rated collection of ACCs and DCCs. This proposal would enable the development industry to adjust to required costs over time, and not financially burden local taxpayers.

2. Pause ACC and DCC Collection

As an extension to the first point, a local government could pause ACC and DCC collection during the 25-year horizon but would be required to make up the lost revenue through an increase to the Municipal Assist Factor, which would create the same excessive burden on local taxpayers.

Proposal

It is proposed that the Ministry and Inspector Municipalities permit local governments to pause the collection of DCCs or ACCs at any point in the 25-year horizon, without the need to compensate with an increased Municipal Assist Factor. This would enable local governments to respond to current market

conditions if the ACC or DCC rates are found to be cost prohibitive to development at a specific time. Further, the opportunity to pause ACC and DCC collection for a period of time would enable local governments to be eligible for Federal funding or grants that may require the temporary reduction or elimination of Development Cost Charges.

3. Extension to In-Stream Protection and Precursor Applications

With respect to in-stream protection from ACCs and DCCs, Section 568 (2) of the *Local Government Act* requires that a building permit authorizing construction be issued within 12 months of the bylaw being adopted, and that a precursor application (rezoning, subdivision) to that building permit application is considered in-stream on the date the bylaw is adopted.

Proposal

Given the state of the economy and real estate market, and the inability to obtain adequate financing for residential development at this time, it is proposed that the Ministry extend the in-stream protection provision from 12 months to 24 months, and permit precursor applications to be acknowledged as in-stream up to 12 months after the ACC and DCC bylaw has been adopted. Consistent with previous proposals, the extension should not require local governments to fund the program through an increase to the Municipal Assist Factor or seek structural amendments to existing ACC and DCC Bylaws.

4. Greater Flexibility in the use of Density Bonus

Many Local Governments, including Burnaby, have utilized the provisions of Section 482 (Density Bonus) within the *Local Government Act* since its inception in 1997. While it is acknowledged that the intent of section 482 was to obtain in-kind amenities to offset the pressures of density related population increases on existing amenities, as a tool it has become a significant financing mechanism for local governments to fund, without limitation, a long-term growth-related amenity program. The advent of Amenity Cost Charges (ACCs) has effectively replaced Density Bonusing as the primary mechanism to consistently fund the longer term and larger amenity needs of local governments. However, the fundamental difference between ACCs and Density Bonusing is that ACCs, similar to DCCs, can only fund the growth portion of an amenity. While Density Bonusing was able to fund both the replacement and growth portions of an amenity. The result is that local governments are now responsible in an ever-increasing cost scenario to fund the replacement of existing amenities through taxation, even though the replacement of these existing amenities is often required as a result of the need to accommodate additional space needs due to growth. Furthermore, the *Local Government Act* expressly prohibits Density Bonus and ACC from funding the same amenity.

Proposal

It is proposed that greater flexibility be offered to local governments on how they fund necessary amenities, by first removing the determination that payment in lieu, if permitted by bylaw, is at the discretion of the developer rather than at the discretion of the local government. This would enable local governments to appropriately plan for density bonus amenities across a city, procuring in-kind amenities where appropriate, and payment-in-lieu of amenities where larger consolidated amenities are necessary.

Furthermore, it is proposed that the payment-in-lieu of amenities be authorized for use towards the existing community benefit factor, with the ACC revenue continuing to fund the growth-related benefit factor.

These relatively minor changes would enable local governments to appropriately plan for amenities and have the security of funding to carry through with amenity construction, rather than having to increase taxes or borrow funds to finance amenities.

4.0 COMMUNICATION AND COMMUNITY ENGAGEMENT

Community engagement was undertaken at the time the ACC and DCC Bylaws were prepared. Ongoing consultation on the Draft Burnaby 2050 OCP is underway, where concerns have been raised on the ability to obtain and finance amenities. Consultation on the proposed Community Benefit Bonus Bylaw is being planned for Spring 2025.

5.0 FINANCIAL CONSIDERATIONS

Significant financial impacts of the ACC and DCC, as well as changes to the Community Benefit Bonus Policy, have resulted in a budget shortfall that is in part being addressed through a Special Infrastructure Levy as part of the 2025 Capital Budget.

Respectfully submitted,

Leon Gous, Chief Administrative Officer

ATTACHMENT

Attachment 1 – Development Finance letter to Provincial Government

REPORT CONTRIBUTORS

This report was prepared by Johannes Schumann, Director Community Planning.