
Subject: 2022 Development Charges By-law Update – Demolition Credits

Report to: Corporate Services Committee

Report date: Wednesday, August 10, 2022

Recommendations

1. That this report **BE RECEIVED** for information.

Key Facts

- The purpose of this report is to provide information to Corporate Services Committee on the July 21, 2022, referral motion from Council to revise the provision for demolition credits in the draft Regional Development Charge (RDC) By-law.
- On July 21, 2022, Council referred a motion to Corporate Services Committee to modify the draft RDC By-law, to include a provision to provide demolition credits for buildings/structures demolished from January 1, 2010, to December 31, 2021.
- The current RDC By-law (2017-98) allows for a five year demolition credit with a three year extension to the five year credit for brownfield properties.
- On April 9, 2022, the RDC Policy Task Force approved the staff recommendation to allow for a three year extension to the five year credit for archaeological sites similar to brownfield demolition credit extension. This was subsequently approved by Corporate Services Committee & Council, through the minutes of the RDC Task Force meeting.
- Region staff, alongside Watson Associates, held four engagement sessions with members of the public (including local developers, development consultants and business associations) in addition to sessions with staff from the Local Area Municipalities (LAMs). No concerns were raised at the engagement sessions regarding demolition credits, nor was it raised when reviewed at the RDC Task Force or Corporate Services Committee.
- Providing a change to the demolition credit provision in the RDC By-law for buildings/structures demolished between January 1, 2010, and December 31, 2021, would provide demolition credits for demolished buildings, that currently do not get the benefit of a demolition credit. Therefore, property owners, who were denied a credit under past By-laws, may seek legal recourse to obtain a refund in their development charges paid.

Financial Considerations

RDC incentives represent a significant component of the annual RDC collections and the Region's annual general tax levy. Providing a provision to allow demolition credits for buildings/structures demolished from January 1, 2010, to December 31, 2021, would increase the length of time that demolition credits can be obtained by developers from 5 years to 17 years over the course of the By-law. By making this change the Region will see additional demolition credits being provided. It is difficult to estimate the number of demolition credits that will be received over the course of the By-law therefore, the financial impact of this is unknown. The DC Act specifies that DC collection deficits, as a result of offering DC incentives, cannot be made up from future DC collections; therefore, the Region funds RDC incentives from the annual tax levy in order to keep the DC reserves whole.

Analysis

On July 21, 2022, Council referred a motion to Corporate Services Committee to modify the draft RDC By-law, to include a provision to provide demolition credits for buildings/structures demolished from January 1, 2010, to December 31, 2021. As a result of Council's proposed motion, staff recommended that if this motion was passed, that the following wording be added to section 10 of the draft DC By-law.

If application is made for a building permit from September 1, 2022, onwards with respect of a parcel of land upon which a building/structure existed between January 1, 2010, and the date of application, but ceased to exist at the date of application, then the amount of development charge payable shall be the excess of the development charges for the building/structure demolished or destroyed. This calculation is based on the development charge rate as of the date the charges are calculated and payable for the new building/structure.

After conducting a review of DC By-laws of the local area municipalities (LAMs) and other comparison municipalities, it was identified that only one municipality has a similar provision in their By-law, which is the City of St. Catharines. See Appendix 1 to Report CSD 40-2022 for the results of this review. In 2021, The City of St. Catharines initiated a new DC By-law, which commenced on January 1, 2021. Prior to 2021, St. Catharines has not had a DC By-law since 2009. With the commencement of their new By-law in 2021, St. Catharines is once again able to collect DCs on developments.

Since municipal DCs were not collected between 2009 and 2021, as a transitional measure, the City incorporated an incentive to provide demolition credits for buildings/structures that were demolished during this time frame. As developments would not have paid DCs during this time, providing demolition credits for these properties allows them to obtain a building permit and be charged municipal DCs credited for the building demolished. This provides an incentive to those developments that between 2010 and 2021, would not have paid DCs to also potentially not pay DCs under the new By-law, if they are building the same building type or square footage as the demolished building. This reduces the financial impact to these developments of a DC By-law once again coming into effect. These are special circumstances resulting from a new By-law coming into effect and acts as a transitional measure specific to St. Catharines only. It is not reasonable to conclude that other municipalities in Niagara would have a similar transition requirement.

The Region has had a DC By-law in effect continuously with no gaps and has been collecting DCs over this entire duration. Therefore, the circumstances of the Region and the City of St. Catharines differ greatly and a transitional provision for demolition credits is not required.

Demolition credits from January 1, 2010, to September 2017, have already expired under our current and previous development charge By-laws. On several occasions, the Region has denied demolition credits for developments due to the 5 year time period for credit expiring. If the RDC By-law is amended to include a provision to allow for demolition credits to be granted between 2010 and 2021, it is important to note that there is a risk that these developments that have not been granted a demolition credit, may come forward and request a refund in RDCs payable in the amount of their credit. If Committee should choose to include a provision to provide demolition credits for buildings/structures demolished from January 1, 2010, to December 31, 2021, it is important that this be done on a prospective basis, so that only developments obtaining a building permit under the new By-law, would be eligible for an extended credit. This would limit the Region's exposure to providing refunds, however, would not prevent an individual from seeing approval of a refund from Council.

Additionally, providing a demolition credit for buildings/structures that have been demolished between January 1, 2010, to December 31, 2021, does not encourage property owners to develop on their properties with demolished buildings or move forward with getting these properties prepared to develop. Under the current By-law, the demolition credit expires after 5 years therefore, incentivising developments to move forward with their plans to build. By providing an extended time period where the

demolition credit applies, this does not incentivise development as they now have extra time to develop and still obtain a credit that would have otherwise expired.

Alternatives Reviewed

The current RDC By-law allows for a five year demolition credit with a three year extension to the five year credit for brownfield properties. During the By-law update process, staff have recommended that the three year extension to the five year credit also include work associated with archeological delays. This change has been included in the draft By-law and ensures that archeological site remediation is treated similar to brownfield demolition credit extension.

Appendix 1 to Report CSD 40-2022, provides details of the demolition credits provided under the Region's DC By-law compared to the LAMs and other comparison municipalities. Based on this comparison, the Region's five year demolition credit is a similar term as our LAMs and other municipal comparators. Additionally, the Region provides an extension for brownfield developments that is not provided by other municipal comparators. Our proposed By-law goes an extra step to provide additional extensions for archeological sites, which is an extension not seen in any other comparable municipality.

Staff recommends that the RDC By-law include a five year demolition credit with a three year extension to the five year credit for brownfield properties and archeological sites. If the motion to provide a demolition credit for buildings/structures that have been demolished between January 1, 2010, to December 31, 2021, was intended for a particular development, Council should recommend an amendment to the Niagara Region Incentives Policy to include an incentive program with specific criteria to provide grant funding equivalent to the amount of expired demolition credits.

Relationship to Council Strategic Priorities

RDCs are the major source of funding for growth projects in the capital budget. As such, RDCs assist in achieving the strategic priorities of a fiscally sustainable government.

Other Pertinent Reports

- RDCPTF-C 5-2022
- RDCPTF-C 7-2022
- CL-C 107-2022

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Appendices

Appendix 1 Demolition Credit Comparisons

Appendix 1 – Demolition Credit Comparisons

Table 1 – Demolition Credits at Local Area Municipalities

Local Area Municipalities	Demolition Credits Available?	Credit Length	Brownfield Extension	Archeological Extension
Niagara Region	Yes	5 years	3 years	3 years *Proposed
City of Niagara Falls	Yes	5 years	N/A	N/A
City of Port Colborne	Yes	1 year	N/A	N/A
City of St. Catharines	Yes*	3 years	5 years	N/A
City of Welland	Yes	10 years		N/A
City of Thorold	Yes	5 years	N/A	N/A
Town of Fort Erie	Yes	5 years	N/A	N/A
Town of Grimsby	Yes	5 years	3 years	N/A
Town of Lincoln	Yes	5 years	N/A	N/A
Town of Niagara-on-the-Lake	Yes	5 years	N/A	N/A
Town of Pelham	Yes	5 years	N/A	N/A
Township of Wainfleet	Yes	5 years	N/A	N/A
Township of West Lincoln	Yes	5 years	N/A	N/A

*Demolition permits issued between January 1, 2010 and December 31, 2021 shall be treated as January 1, 2022

Table 2 – Demolition Credits at Other Municipal Comparators

Other Municipal Comparators	Demolition Credits Available?	Credit Length	Brownfield Extension	Archeological Extension
Niagara Region	Yes	5 years	3 years	3 years *Proposed
City of Hamilton	Yes	5 years	N/A	N/A
City of Kitchener	Yes	5 years	N/A	N/A
Region of Waterloo	Yes	5 years	N/A	N/A
Haldimand County	Yes	10 years	N/A	N/A
City of London	Yes	10 years	N/A	N/A
City of Windsor	Yes	5 years	N/A	N/A
City of Guelph	Yes	Indefinite	N/A	N/A

Other Municipal Comparators	Demolition Credits Available?	Credit Length	Brownfield Extension	Archeological Extension
City of Brantford	Yes	Indefinite	N/A	N/A
Oxford County (Woodstock)	Yes	5 years	N/A	N/A
City of Woodstock	Yes	5 years	N/A	N/A
Halton Region	No	N/A	N/A	N/A
Durham Region	Yes	10 years	N/A	N/A
City of Oshawa	Yes	5 years	N/A	N/A