

Clause 8 in Report No. 17 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on November 17, 2016.

8

2017 Development Charge Bylaw Directions

Committee of the Whole recommends:

1. Receipt of the deputation by Marco Filice, Liberty Development Corporation.
2. Adoption of the following recommendations contained in the report dated October 28, 2016 from the Commissioner of Finance:
 1. Council endorse applying development charges on a region-wide basis for the 2017 Development Charge Bylaw (2017 Bylaw), with the exception of wastewater services for the Village of Nobleton.
 2. Council endorse the use of the 2031 population and employment growth projections as the basis for the development charge rate calculation.
 3. Council endorse the creation of a new hotel development charge rate class, levying a per square foot charge.
 4. Council endorse not offering a development charge reduction for buildings enrolled in the Region's Leadership in Energy and Environmental Design (LEED) incentive program.
 5. The Region continue to seek full funding from Metrolinx and the federal government for higher order transit projects, including the Yonge North Subway Extension and the Viva Bus Rapid Transit Plan.
 6. The Regional Clerk circulate this report to the local municipalities.

Report dated October 28, 2016 from the Commissioner of Finance now follows:

1. Recommendations

It is recommended that:

1. Council endorse applying development charges on a region-wide basis for the 2017 Development Charge Bylaw (2017 Bylaw), with the exception of wastewater services for the Village of Nobleton.
2. Council endorse the use of the 2031 population and employment growth projections as the basis for the development charge rate calculation.
3. Council endorse the creation of a new hotel development charge rate class, levying a per square foot charge.
4. Council endorse not offering a development charge reduction for buildings enrolled in the Region's Leadership in Energy and Environmental Design (LEED) incentive program.
5. The Region continue to seek full funding from Metrolinx and the federal government for higher order transit projects, including the Yonge North Subway Extension and the Viva Bus Rapid Transit Plan.
6. The Regional Clerk circulate this report to the local municipalities.

2. Purpose

Every five years, if not sooner, a municipality must update its development charge bylaw in order to continue to levy development charges. This report provides Council with a progress update and seeks direction on a number of key decision points in advance of the tabling of the Development Charge Background Study expected in February 2017.

3. Background and Previous Council Direction

Council has previously endorsed a work plan for the 2017 Development Charge Bylaw update

On June 23, 2016, Council endorsed a work plan for the 2017 Development Charge Bylaw and Background Study. Table 1 describes the statutory requirements, Council engagements, and the applicable dates. In June, Council also directed staff to consider, as part of the bylaw update, a non-residential, non-retail development charge rate structure for hotels.

**Table 1
Key Dates in Regional Bylaw Process**

Deliverables	Tentative Dates	Time Elapsed
Report to Council	November 17, 2016	
Notice of public meeting	February 2, 2017	
2017 Background Study and Bylaw publicly released	February 3, 2017	} 34 days
Report to Council on the 2017 Background Study and Bylaw	February 16, 2017	
Public meeting at Committee of the Whole	March 9, 2017	
New Bylaw to Council for consideration of passage	May 18, 2017	} 70 days
2017 Development Charges Bylaw comes into force	June 17, 2017	} 104 days*

*The amended *Development Charges Act, 1997* requires that a background study be available to the public at least 60 days prior to passing the Bylaw

Staff are on track to table the 2017 Development Charge Bylaw and Background Study at Council in February 2017

In June 2016, staff established an interdepartmental working committee to ensure all deliverables necessary to inform the 2017 Bylaw update are delivered on time.

2017 Development Charge Bylaw Directions

It is anticipated that a draft bylaw and the 2017 Background Study will be released at Council in February 2017.

The work has focused on:

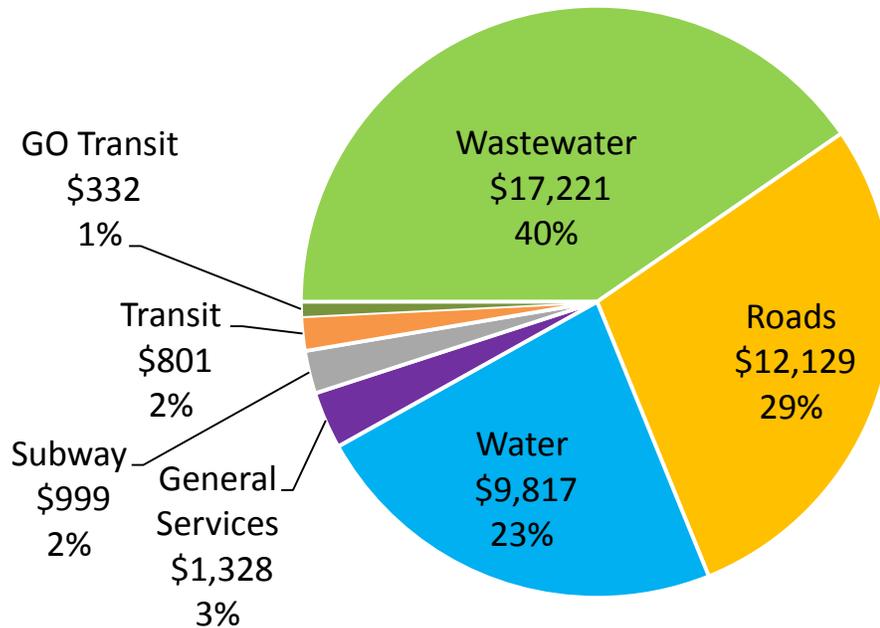
- Collecting data for the development charge rate calculation (e.g., level of service, growth forecast, capital cost, etc.)
- Reviewing and updating development charge calculation methodologies and assumptions
- Developing and reviewing development charge policies
- Consulting with local municipalities and the Building Industry and Land Development Association – York Chapter (BILD)

Development charges help pay for essential regional infrastructure needed to service growth

Development charges help to fund growth-related regional services, including water, wastewater, roads, transit, police, social housing, emergency medical services and other general services. Currently, the Region's development charge rate for a single-family detached home is \$42,627 (as of September 1, 2016). Over ninety per cent of the residential charge is to pay for water, wastewater and roads (Chart 1).

Chart 1

Current York Region Development Charge Rate for Single Family Detached Home - \$42,627



The amended *Development Charges Act* introduces new requirements for municipalities

On January 1, 2016, the amendments to the *Development Charges Act, 1997* (the 'Act') and accompanying regulations came into force. The amended Act allows for greater cost recovery but also places new reporting and analytical requirements on municipalities. The amendments represent a significant change in Ontario's approach to funding growth (see Table 2 for further detail).

Table 2

New requirements under the amended Act

Material changes	Administrative changes
Requirement to consider area-specific development charges	Increased reporting requirements for development charge reserves
Planned level of service for transit for a 10-year horizon and removal of 10 per cent statutory deduction	Background study available to the public at least 60 days prior to passing of the bylaw

Material changes	Administrative changes
Waste diversion eligible for development charge recovery	
Requirement for asset management plans	
No voluntary contributions	

Consultation with local municipalities and the development community has been a key part of the 2017 Bylaw update process

Since June, staff have met monthly with the local municipalities to provide updates and seek feedback on specific issues that inform the 2017 Bylaw. Three more meetings are planned before the tabling of the 2017 Background Study.

The Region is also committed to an open, consultative process with the development community. On August 29, 2016, staff met with representatives from BILD to begin the engagement process. Staff will meet with this working group at least seven more times leading up to the tabling of the Background Study.

Key issues that have been discussed with the local municipalities and development community include:

- Forecast period and growth forecast
- Area-specific development charges
- Methodology for studying the relationship between gross floor area and occupancy in apartments
- Development charge calculation methodologies

4. Analysis and Implications

New rates for the 2017 Bylaw will be based on population, employment and growth-related capital cost forecasts to 2031

On May 10, 2016, the Province announced draft amendments to provincial growth management plans that contemplate significantly greater levels of intensification and densities than are found in the current Growth Plan and the Region's Official Plan.

The Region's Municipal Comprehensive Review process was intended to address growth to 2041. However, until clearer direction is provided by the Province (such as key technical assumptions), the review process has been temporarily suspended. This means that the population forecast for 2041 will not be available in time for this bylaw update. As a result, the 2017 Bylaw will be based on population, employment and growth-related capital cost forecasts to 2031.

It is anticipated that the Region will update its development charge bylaw after the new Growth Plan policies have been finalized and the Municipal Comprehensive Review is complete. This will likely occur before the statutory maximum period of five years lapses in 2022.

Density assumptions will be revised for the 2017 Bylaw

Persons per unit (PPU) and floor space per worker (FSW) are major inputs into the development charge rate calculation. For residential development charges, rates are first calculated on a per capita basis. The rate for each dwelling type is determined by multiplying the per capita rate by the assumptions for the average number of occupants, or persons per unit, in each dwelling type.

For non-residential development charges, rates are calculated on a per square foot/metre basis. The total growth in non-residential floor space is calculated by multiplying the forecast growth in employment by the assumed average floor space per worker.

The 2017 development charge growth forecast projects a declining persons per unit over time. This is largely due to factors such as a relatively low fertility rate, the anticipated increase in non-family households and one person households and an aging population.

Building permit data for recently constructed buildings, combined with the Region's employment survey, indicate that employment densities have increased in all non-residential categories.

Region-wide development charges are the most feasible option for the 2017 Bylaw

Development charges may be region-wide, area-specific or a combination of the two. Under the amended *Act*, a municipality must consider area-specific development charges as part of its development charge background study. However, the province has not defined what the term 'consider' entails.

The Region currently applies a region-wide charge for its services, with the exception of the water resource recovery facility located in the Village of Nobleton. This is because growth-related services delivered by the Region tend to result in region-wide benefits, such as water and wastewater treatment plants, trunk sewers and arterial roads. Area-specific development charges are usually more suitable for new or currently unfunded standalone water/wastewater systems such as the Nobleton water resource recovery facility.

Staff considered the feasibility of applying area-specific development charges as part of the 2017 Bylaw update. For reasons identified in Table 3, staff recommend that the Region continue to apply region-wide charges for the 2017 Bylaw.

Table 3

Region-wide versus area-specific development charges

Principle	Region-wide	Area-specific
Fiscal responsibility	Maximizes cost recovery under the <i>Development Charges Act, 1997</i> Greater degree of fiscal flexibility	For services other than water, wastewater and police, could limit cost recovery in areas with an above average planned level of service (due to restrictions within the Regulations)
Fairness and equity	Cost of growth is shared by developments across the Region	Apportions costs based on servicing requirements
Suitability	Most regional services provide region-wide benefits and are not suitable for area-specific rates	Area-specific development charges are more suitable for new unfunded water and wastewater systems
Administrative implications	This is the current development charge rate structure	Requires separate bylaws and reserves Creating, managing and transitioning reserves would be difficult

In addition, the proposed changes to the Growth Plan, if implemented, could significantly affect the spatial distribution of the growth forecast, an essential input in determining the benefiting population that is needed when creating an area-specific development charge.

Staff will revisit the issue of area-specific development charges once revised growth and capital cost forecasts are available.

Waste diversion costs can now be incorporated into the 2017 Bylaw

Waste diversion is now eligible for development charge funding. However, it is limited to a ten-year planning horizon and is subject a ten per cent statutory

deduction. Landfill sites and incineration (including energy from waste) remain ineligible.

A methodology for determining the planned level of service for transit is under development

The recovery of growth-related capital expenditures through development charges is limited by the use of historic ten-year average service levels for most services. However, under the amended *Act*, municipalities are now permitted to use a planned level of service (forward-looking instead of backward-looking) when establishing development charges for transit. In addition, the amended *Act* removed the ten per cent statutory deduction for transit. Both of these changes increase the ability of municipalities to recover growth-related costs through development charges.

The regulations to the *Act* provide some guidance for determining the planned level of service; however, municipalities must still develop their own specific methodology. The Region's methodology, which is consistent with the legislation, includes the following elements:

- Ridership forecast for all modes of transit to be funded by development charges
- Assessment of ridership capacity for all modes of transit funded by development charges
- An identification of the excess capacity at the end of the ten-year period immediately preceding the preparation of the background study
- An estimate of the post-period ridership capacity

The calculation of transit development charges also assumes that Metrolinx and the federal government will fully fund higher order transit projects, including the Yonge North Subway Extension and the Viva Bus Rapid Transit Plan. This is due to the Region's lack of fiscal capacity to fund these projects.

Municipalities must prepare an asset management plan for infrastructure funded by development charges

The amended *Act* now requires that municipalities include an asset management plan that demonstrates that all assets funded by development charges will be financially sustainable over their lifecycle. This is in addition to the current requirement of examining the long-term capital and operating costs required for each infrastructure service. So far the province has only provided detailed requirements for transit asset management plans as part of its regulations.

The intent of the asset management plan requirement is to ensure that municipalities do not include growth projects in their bylaw that they cannot afford to maintain.

In 2013, Council approved a Corporate Asset Management Policy and Asset Management Framework that outlines corporate asset management objectives and processes across all infrastructure assets. The preparation of an asset management plan in support of a financial sustainability analysis, as required under the amended *Act*, will follow the principles of the Corporate Asset Management Policy and Asset Management Framework. This asset management plan will form part of the background study that will be presented to Council.

In addition to an asset management plan, staff are preparing a fiscal impact analysis

Staff are also preparing a fiscal impact analysis that will quantify the full cost of growth, as well as the cost to maintain service levels and keep existing assets in a state of good repair. It will consider both operating and capital costs and evaluate the impact of growth on the tax levy.

A similar analysis was undertaken as part of the water and wastewater rate review. This review provided the basis for multi-year rate increases that will allow the Region to achieve full cost recovery for water and wastewater infrastructure by 2021.

Consistent with the Regional Fiscal Strategy, the fiscal impact analysis will examine long-term financial sustainability with respect to:

- Quantifying the cost of past and future infrastructure investment
- Identifying funding shortfalls and their impacts

Staff plan to report back to Council with the full results of the fiscal impact analysis later in 2017.

Staff and Hemson Consulting are collaborating with BILD to study the relationship between apartment size and occupancy

Prior to the 2012 Development Charges Bylaw (2012 Bylaw), the Region used the number of bedrooms to delineate apartment size. Starting with the 2012 Bylaw, the Region began using a gross floor area threshold to delineate large versus small apartments.

When development charges were first implemented, the use of a uniform apartment charge was common practice. Since then, as development charges and built form have evolved, municipalities have increasingly used a differentiated apartment rate based on occupancy. This is because for most services the drivers are population and employment growth. Therefore, it is reasonable that differences in occupancy/persons per unit by unit size be used as the basis for differentiating the residential development charge.

Recently, the Ontario Municipal Board and the Divisional Court have ruled against combining two or more apartment categories into one uniform category. The case, involving the Hamilton-Halton Homebuilders' Association and the Regional Municipality of Halton, held that combining the smaller and larger units together made the smaller units less affordable, contrary to the intent of the Provincial Policy Statement.

In June 2012, the Region agreed to work with BILD to study the relationship between apartment size and occupancy. The result of this study will inform the delineation between small and large apartments for the purposes of the 2017 Bylaw.

Staff will report back to Council in February 2017 with the results of this study. Options being examined include changing the gross floor area from the current threshold of 650 square feet, or using a per square foot charge for apartments.

A separate class can be created for hotels

Under the Region's 2012 Bylaw, hotels are charged using a blended rate, whereby all of the rooms are charged the small apartment rate and 25 per cent of the building's total gross floor area is charged the retail rate. This structure results in a development charge rate that is higher than that of neighbouring municipalities.

In June, Council directed staff to consider charging a rate for hotels that is consistent with the non-residential, non-retail rate. Staff have developed two options, shown in Table 4.

Table 4
Options for hotel development charge rate structure under the 2017 Bylaw

	Add hotels to the existing non-retail class	Put hotels in a separate hotels class, levy a per square foot charge
More favorable than current blended treatment	Yes	Yes
Defensibility	May appear to be an arbitrary assignment	Defensible – both fair and reasonable
Interjurisdictional experience	None	Region of Niagara

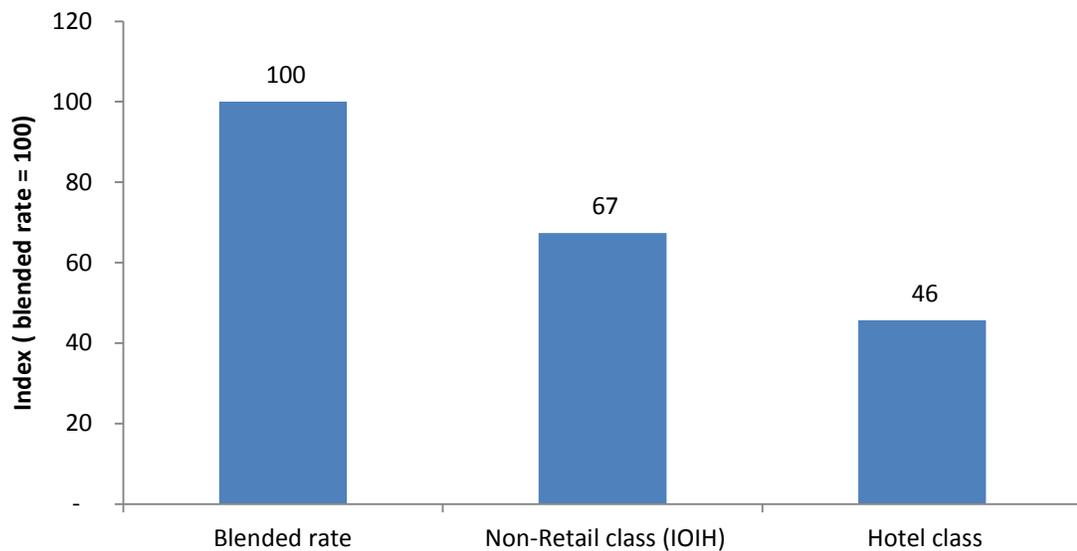
Any proposed change to the treatment for hotels would be prescribed in the 2017 Bylaw both through definition and rate structure. Hotels are often developed with ‘other’ uses (e.g., retail, office). The definition for hotels in the 2017 Bylaw will recognize that the principal use of a hotel should be for lodging.

After surveying all hotels that have opened in the Region since 2000, staff have determined that the non-lodging component of hotels is typically no more than 25 per cent of the gross floor area. The 2017 Bylaw should reflect that when the ‘non-lodging’ use of a hotel is more than 25 per cent of the total gross floor area, the amount above and beyond that threshold should be levied the applicable development charge rate.

While the final 2017 development charge rates are not known at this time, the relative magnitude of rates under different structures can be assessed. Preliminary analysis shows that both options shown in Table 4 would represent a measurable reduction in the development charges payable for hotels when compared to the blended rate structure. Graph 1 shows that the hotel class option provides the lowest rate.

Graph 1

New blended rate versus options for the 2017 Bylaw*



*Note: Analysis is based on a typical six storey hotel, consisting of 124 suites and 73,000 square feet

Analysis of options for the deferral of development charges for purpose-built rentals is under way

Currently, the Region does not have a formal policy to allow the deferral of development charges for purpose-built rentals. However, policies do exist for the deferral of development charges for high-rise condominiums, offices and retail developments.

Through a pilot project, the Region has provided a development charge deferral for a purpose-built rental building at 212 Davis Drive located in the Town of Newmarket. This 36-month deferral agreement helped facilitate the development of 225 rental units.

Staff are looking at a number of issues related to a deferral policy for purpose-built rentals, including:

- Duration of the agreement
- Whether or not interest should be charged
- Whether or not there should be restrictive covenants

- Date at which the development charge rate is set
- What form of security (if any) should be taken

Table 5 provides details of the Region’s current development charge deferral policy for high rise condominiums and the pilot project at 212 Davis Drive. Staff intend to report back to Council on this issue in early 2017.

Table 5
Deferral policy currently offered for high-rise condominiums versus the 212 Davis Drive pilot project

Details	Current deferral offered to condominium developers	212 Davis Drive pilot project
Duration	18 months	36 months
Interest Charged	No	No, if conditions met
Restrictive covenants	No	Yes
When development charges are calculated	At building permit date	At building permit date
Form of security	Letter of credit	Charge against land

There is insufficient evidence to support providing development charge reductions for LEED developments

The performance of buildings participating in the Region’s Sustainable Development through LEED incentive program is continuously monitored by staff. Based on a sample of 24 buildings built between 2009 and 2014, water consumption per capita in the LEED buildings is approximately 21 per cent less than non-LEED buildings. However, the trend of the water consumption difference is anticipated to narrow over time as water efficient fixtures become more prevalent in newer non-LEED buildings. The new building code that took effect in 2014 significantly closes the gap in water consumption between LEED and non-LEED buildings.

The small water consumption difference between LEED and non-LEED buildings recorded to date does not change regional infrastructure sizing. It is expected that the difference would become even smaller in the future as a result of the new building code and the growing use of water efficient fixtures.

Staff recommend that no development charge reduction be provided for LEED buildings at this time. Staff will continue to collect data on this issue and monitor water usage for these buildings. Other incentives will be explored to encourage participation in the Region's LEED program.

Staff are reviewing the treatment of redevelopment credits

The 2012 Bylaw provides for a development charge reduction for certain qualified residential and non-residential redevelopment projects. If redevelopment occurs within 48 months of a building's demolition or conversion, a credit towards the development charges payable may be offered. The credit is intended to encourage timely redevelopment after demolition.

For residential developments, the credit is calculated based on the number and type of dwelling units that were demolished or converted. For non-residential developments, the credit is based on the gross floor area that was demolished or converted.

Staff are reviewing the possibility of modifying the time frame of the redevelopment credit to address cases where redevelopment is occurring on a floodplain and within Special Policy Areas located in the Regional Centres and Corridors. Staff will report back in February 2017.

5. Financial Implications

Development charges fund 68 per cent of the costs of growth-related infrastructure in the ten-year capital plan

Development charges are a key funding source for the Region's 2016 Capital Plan as 68% of the growth-related infrastructure is funded through development charge reserves and debt proceeds.

Due to restrictions under the *Act*, development charges cannot fully fund the cost of growth-related capital infrastructure. Legislated deductions for a portion of the cost of infrastructure that may benefit the existing population, exemptions, and a statutory ten percent deduction make full cost recovery impossible.

In addition, deductions made for post-period benefit delay cost recovery. Any amount not paid for by development charges would have to be recovered through user rates, the tax levy or grants.

The 2017 Bylaw update is an opportunity to reconcile the Region’s forecasts and assumptions

The 2012 Background Study implied development charge collections of approximately \$555 million annually from mid-2012 to mid-2016. Since the 2012 Bylaw came into force, the Region has only collected about 51 per cent of forecast collections, or an average of \$284 million annually. Collections were below forecast for the following reasons:

- Actual growth was below provincial growth targets
- Exemptions (both statutory and non-statutory)
- Development charge prepayment agreements

Table 6 shows the difference between actual housing completions and what was anticipated in the 2012 Background Study. Actual housing completions were approximately 25 per cent lower than expected.

Table 6
2012 Development Charge Background Study housing completion forecast versus actuals

Year	2012 Development Charge Background Study (forecast housing completions) - Annual Average	Actual Housing Completions - Annual Average*	Percentage difference (actuals – completions)
Mid-2012 to Mid -2016	10,230	7,660	-25%

*Source: Canada Mortgage and Housing Corporation

Completions for both apartments and ground-related units were below expectations:

- Apartments were 28 per cent below expectations, translating to an annual average of 1,070 fewer units than forecast
- Ground-related units, including single-family dwellings, semi-detached and rows, were 23 per cent below expectations, translating to an annual average of approximately 1,500 fewer units than forecast

For the 2017 Bylaw update, staff have systematically reviewed previous assumptions in an effort to reflect realities on the ground.

Development charge exemptions present a significant challenge for the Region

The 2012 Bylaw includes a number of statutory and non-statutory exemptions (see Attachment 1 for further explanation). Exemptions have the impact of reducing the amount of growth from which the Region can collect development charges, which results in a significant fiscal pressure.

6. Local Municipal Impact

Development charges fund vital growth-related infrastructure that benefits both the Region and its local municipalities.

Local municipalities have been engaged throughout the 2017 Bylaw update. Regional staff will continue to consult with the local municipalities prior to tabling the background study in February, 2017.

7. Conclusion

This report provides an update on the work under way to update the development charges bylaw and seeks Council direction on a number of matters.

The 2017 Bylaw and Background Study will be made available to the public on February 3, 2017 at the release of the Committee of the Whole agenda, and will be tabled at Council on February 16, 2017.

It is anticipated that the proposed 2017 Bylaw will come before Council on May 18, 2017 for consideration of passage and come into effect on June 17, 2017.

For more information on this report, please contact Edward Hankins, Director, Treasury Office, at ext. 71644.

The Senior Management Group has reviewed this report. October 28, 2016

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Attachments (1)

Accessible formats or communication supports are available upon request

Regional Municipality of York

Non- Residential Development Charge Exemptions: Statutory and Non-Statutory

Type of Use	Statutory	Non-Statutory
Institutional	Public Schools	Addition or expansion is less than 50 per cent of the existing gross floor area
		Public Hospitals receiving aid under the <i>Public Hospital Act, 1990</i>
		Non-residential farm buildings
		Accessory structures which are less than 100m ² of gross floor area
		Lands, buildings or structures used for cemeteries or burial grounds exempt from taxation under the <i>Assessment Act, 1990</i>
		Buildings owned by a non-profit corporation with purposes of a charitable nature and provide a facility for community use, where an area municipality agrees to a similar exemption
		Development of a place of worship for gross floor area up to a maximum of 5,000 square feet, or gross floor area that relates to the portion of the structure used principally for worship, whichever is greater
		Land owned by and used for the purposes of a private school that qualify as exempt from taxation under the <i>Assessment Act, 1990</i> and where an area municipality agrees to a similar exemption

Type of Use	Statutory	Non-Statutory
Office		Addition or expansion is less than 50 per cent of the existing gross floor area
		Accessory structures which are less than 100m ² of gross floor area
Industrial	Addition or expansion is less than 50 per cent of the existing gross floor area	Accessory structures which are less than 100m ² of gross floor area
Retail		Accessory structures which are less than 100m ² of gross floor area

Regional Municipality of York

Residential Development Charge Exemptions: Statutory and Non-Statutory

Statutory Exemption		
Type of Building	Maximum Number of Additional Dwelling Units	Restrictions
Single detached dwellings	Two	Total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building
Semi-detached dwellings or row dwellings	One	Total gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the existing dwelling unit already in the building
Other residential buildings	One	Total gross floor area of additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building

Non-Statutory
Affordable rental housing projects owned by a non-profit organization (grant provided equivalent to the development charge payable)