

October 9, 2025

To our Municipal Clients:

Re: Regulatory Registry 25-MMAH016 Comments – Proposed Amendments to Operationalize Payment of Development Charges at Occupancy

In our continued efforts to keep our clients up to date on legislative changes that may impact them, we are writing to inform you of proposed regulatory changes to Ontario Regulation 163/24 (Building Code), under the *Building Code Act, 1992*. This letter provides a summary of the proposed changes and commentary on potential impacts to municipalities.

The Province is seeking comments via the Regulatory Registry at the following link: <https://www.regulatoryregistry.gov.on.ca/proposal/51914>. The deadline to submit comments is October 17, 2025.

1. Overview

As part of changes introduced through the *Protect Ontario by Building Faster and Smarter Act, 2025 (Bill 17)*, the *Development Charges Act, 1997 (D.C.A.)* would be amended to provide for payment of Development Charges (D.C.s) at the earlier of the day the building is first occupied, or the day an occupancy permit is issued for non-rental residential development. The changes would come into effect on a day named by order of the Lieutenant Governor (i.e., commencement). Note that as of the date of this letter, commencement has not occurred.

The proposed changes to the Building Code are meant to operationalize the deferral of payment of residential D.C.s to the time of first occupancy of a building or issuance of an occupancy permit. As such, the changes are proposed to:

- Require occupancy permits for non-rental residential buildings, including stacked townhouses, where a builder elects to defer D.C.s under subsection 26.1 (3.1)^[1] of the D.C.A. This would apply to buildings that are completed but not yet occupied that do not currently require an occupancy permit.
- Require a Chief Building Official to deny issuance of the occupancy permit until the municipality confirms the D.C.s have been paid in full.

^[1] Subsection 26.1 (3.1) of the D.C.A. refers to payment of D.C.s at occupancy for non-rental residential development. Note, as of the date of this letter, this section is not yet in force.



- Require that all existing life-safety construction requirements are met before an occupancy permit can be issued.

These changes do not apply to:

- A municipality that does not have a D.C. by-law;
- Rental housing and institutional development under subsection 26.1 of the D.C.A.; or
- Where an early or late payment agreement has been made pursuant to section 27 of the D.C.A.

2. Commentary

Note that the draft regulation has not yet been released. Our preliminary commentary, provided below, is based on the summary of the proposed changes provided on the Provincial Regulatory Registry website.

Removal of Requirement for Securities

When Bill 17 was first introduced, there was an indication that the payment of D.C.s for residential development would be deferred to occupancy, subject to the following:

- Payment of D.C.s would be required before the issuance of an occupancy permit; and
- In situations where an occupancy permit is not required, municipalities would have the ability to require financial securities.

The summary provided appears to indicate that all non-rental housing developments seeking payment of D.C.s at occupancy will be subject to an occupancy permit. It is unclear if this requirement will replace the option for municipalities to use financial securities in place of occupancy permits. If occupancy permits are required for all non-rental housing developments, this will have greater processing demands on municipal building permit operations.

Election of Use of Deferral

The summary of proposed changes uses the term “where a builder elects to defer D.C.s.” This implies that the builder will have the option to defer payment of D.C.s to occupancy. If, however, a builder does not elect to defer payment to occupancy, this will create a different administrative process that needs to be tracked by municipalities.



Note that the choice to defer D.C.s to occupancy may be in reference to changes included in Bill 17 (subsection 26.1 (12) of the D.C.A.^[1]).

Although making the deferral optional may create administrative complexities through a two-track system, allowing builders to continue to pay at the time of building permit (or as otherwise identified in the D.C. by-law) is positive, as it may alleviate some of the cashflow pressures created by the deferrals.

Previous Comments on Legislative Change

As noted in our previous correspondence of June 4, 2025, this change will: add significant administrative costs across the Province; create cashflow implications for D.C. projects, which will lead to a delay in development of growth-related infrastructure; conflict with subsection 26 (2) of the D.C.A.;^[2] and impact the residential rate freeze provisions of the D.C.A. We have attached our June 4, 2025 letter for ease of reference.

3. Consultation Topics

The Ministry is seeking feedback on the following topics:

- Practical considerations for requiring and withholding occupancy permits where D.C.s are deferred under subsection 26.1 (3.1) of the D.C.A. (including documentation of payment and municipal processes).
 - Municipal staff input will be valuable in consultations with the Ministry in this regard.
- Treatment of phased or partial occupancy developments.
 - If payment of D.C.s can be further delayed by phasing occupancy of a development, this would create additional administrative tracking requirements and would create further cashflow pressure on municipalities.
 - Any consideration to further phasing of the D.C.s should not include housing-enabling D.C. services such as water, wastewater, stormwater, and services related to a highway, as the capital investment in these services occurs prior to development.

^[1] Subsection 26.1 (12) of the D.C.A. states the following: “For greater certainty, a person required to pay a development charge under this section may pay the charge before the day it is payable even in the absence of an agreement under section 27.” Note that this section is not yet in force as of the date of this letter.

^[2] Subsection 26 (2) states that a municipality, by by-law, may require payment of D.C.s for certain services at the time of approval of a subdivision or consent agreement.



- Whether there is support for extending the time for municipalities to complete a prescribed inspection to permit occupancy, from two days after receipt of the notice to 10 days after receipt of the notice, where D.C.s have been deferred.
 - Given the additional administrative effort related to tracking D.C. deferrals and ensuring payment has been received prior to performing an occupancy inspection, granting municipal staff additional time to complete the process would appear to be a positive change.
- Any consequential improvements to occupancy-related provisions and other supports (e.g., templates for occupancy permits or prescribed notices, homebuyer and builder education) that would improve consistency and transparency and minimize disruption for homebuyers.
 - Municipal staff input will be valuable in consultations with the Ministry in this regard.

4. Concluding Remarks

The proposed changes to the Building Code to operationalize the deferral of payment of residential D.C.s to occupancy appear to simplify the initial legislative proposal by requiring all non-rental housing development to obtain an occupancy permit. This may be beneficial because it would be less administratively burdensome than administering financial security agreements. However, as the deferral of payment of D.C.s to occupancy (or occupancy permit) is optional, this will create a dual tracking system. In addition, this will require all municipal building departments to create an occupancy permitting process for these types of development, where one does not currently exist, potentially further delaying development processing times.

We anticipate further regulatory changes to the D.C.A., as noted by the Province in previous news releases. We will continue to monitor any changes and inform you of the potential impacts on municipalities.

Should you have any questions, please contact any of the undersigned or send an email to info@watsonecon.ca.

Yours very truly,

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