

City of Mississauga
Corporate Report



<p>Date: March 15, 2023</p> <p>To: Mayor and Members of Council</p>	<p>Originator's files:</p>
<p>From: Shari Lichterman, CPA, CMA, Acting City Manager and Chief Administrative Officer</p>	<p>Meeting date: March 22, 2023</p>

Subject

Authorization to Enter into a Development Charges Deferral Agreement with Illumi Productions Inc. for the Illumi Event at 7174 Derrycrest Drive (Ward 5)

Recommendation

1. That staff undertake a review of the definition of “temporary building or structure” in the Development Charges By-law 0133-2022 and report back to Council with any proposed amendments through the next Development Charge By-law review cycle.
2. That the Acting City Manager and CAO, and the City Clerk, or their designate, be authorized to enter into a development charge deferral agreement on behalf of the City with Illumi Productions Inc., with the content satisfactory to the Acting City Manager and CAO and in a form satisfactory to the City Solicitor, to defer the payment of development charges for the structures associated with the Illumi event at 7174 Derrycrest Drive.

Executive Summary

- In June 2022, Council passed Development Charges By-law 0133-2022 (the “By-law”) that imposes development charges (“DCs”) against land to pay for growth-related capital costs arising from new development in the City.
- The By-law does not impose development charges on “temporary buildings or structures”.
- Temporary building or structures are defined as those that are in place for 245 days or less within any twelve month period. This definition has been relatively unchanged for several By-law review cycles.
- In 2022, Illumi Productions Inc. applied for building permits to erect various tents and other structures in support of their event entitled Illumi, located at 7174 Derrycrest Drive. The Illumi event is a temporary use permitted on a minor variance approval that expires on July 31, 2026.

- Based on the current By-law definition, the three building permits related to the Illumi event are required to pay DCs.
- Staff are recommending that Council authorize a DC Deferral Agreement to defer the calculation and payment of the DCs for a period of approximately five years.
- Staff will undertake a review of the definition of “temporary building or structure” and incorporate any changes, as appropriate, for Council’s consideration through the next DC By-law review.
- The total applicable City and Regional DCs amount to \$609,731.04, of which \$190,658.66 relates to the City’s portion of the DC invoice.
- Where DCs are not levied on temporary buildings or structures, DCs are ultimately collected in full when the property is redeveloped for the permanent use, which is expected to be the case for this property.

Background

Development charges (DCs) are collected for the purpose of assisting to fund the construction of new development-related capital infrastructure. It remains the primary revenue tool in funding development-related capital programs contained in the City’s Business Plan and Budget document.

In June 2022, Council passed Development Charges By-law 0133-2022 (the “By-law”). The definitions, policies and rates contained in the By-law will continue to be in force until such time that Council amends or repeals the By-law. The By-law contains a limited number of exemptions, including that no DCs are imposed on “temporary buildings or structures”, as defined in the By-law. A building or structure is defined as temporary if the building or structure is constructed or placed on the land for a period not exceeding 245 days within any twelve month period. This definition has remained relatively consistent since the passage of the 1999 DC By-law.

Should the application meet the definition of temporary and wish to enter into the deferral agreement, the By-law provides for the authority for the Commissioner of Corporate Services and the City Clerk to enter into a DC deferral agreement, provided the agreement includes the following terms:

- A security is provided in an amount and form satisfactory to the Commissioner of Corporate Services;
- The DCs be indexed in accordance with the By-law;
- The period of the deferral does not exceed thirty-six months; and
- A non-refundable administration fee to cover the costs associated with preparing the agreement.

Staff have been in discussions with Illumi Productions Inc. (the “Applicant”) who have brought an event entitled Illumi to the City of Mississauga. In 2021, the Committee of Adjustment

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approved a Minor Variance which allowed the applicant to put on an outdoor, seasonal, festival of lights that will operate yearly on a temporary basis until July 31, 2026.

The festival of lights includes accessory uses and structures to help support the event including concession tents, entrance and special event tents and staff and shop tents. Currently, there are three structures which require the issuance of a building permit and where DC By-law applies. The Applicant has indicated that they may operate in excess of 245-days per calendar year until July 31, 2026.

Comments

The impetus of this report is for staff to receive authorization to enter into a DC deferral agreement, beyond the term defined in the By-law, to defer the calculation of the DCs until such point in time that the DC by-law is renewed by Council, likely to occur in 2027. Staff will undertake a review of the temporary building or structure definition and bring forward any proposed revisions for Council's consideration during the 2027 By-law review.

As previously mentioned, the definitions, policies and rates contained in the By-law will continue to be in force until such time that Council amends or renews the By-law. Staff does not advise for Council to open up and amend the By-law simply to change one policy and definition, as the passage of a new by-law would be subject to appeals to the Ontario Land Tribunal. Coupled by the new rules stemming from Bill 23, the DC rates would be subject to a retroactive phase-in starting at a 20 percent discount in the first year of the by-law. In other words, the DC rates would be automatically reduced/discounted should Council open up the By-law.

The DC Deferral Agreement will provide for the payment of DCs, should the use become protracted or no longer deemed to be a temporary structure, in accordance with the By-law. It should also be noted that where DCs are not levied on temporary buildings or structures, DCs are ultimately collected in full when the property is redeveloped for the permanent use, which is expected to be the case for this property.

Financial Impact

If the DC by-laws were applied today, the following is a breakdown of the DCs applicable for the three permits.

City of Mississauga DCs	\$190,658.66
Region of Peel DCs	\$419,072.38
Peel District School Board DCs	\$8,246.70
Dufferin Peel Catholic School Board DCs	\$7,896.84
Total Development Charges	\$625,874.58

The above noted DCs represent the fully calculated charge, based upon the prevailing DC rates. It is noted that the Region of Peel's policy regarding temporary buildings or structures is consistent with the City's. Regional staff would need to bring forward a similar recommendation

for Regional Council's consideration in order to accommodate the Applicant's request. The education development charges have been paid in full by the Applicant as there is no exemption contained in their by-law nor is there a deferral provision in the *Education Act*.

Finally, it should be noted that an exemption contained in the By-law does not constitute a waiver or grant-in-lieu of DCs. The City's current By-law already contemplates the exemption of temporary uses from the payment of DCs; this current proposal simply seeks more time to defer the calculation of the DCs until staff have the opportunity to review the definition of temporary in the By-law.

Conclusion

This report has been prepared to provide an overview of the application of the DC by-law, its exemption for temporary buildings and structures, and how the By-law would apply to the Illumi event. Staff are seeking authorization to enter into a DC Deferral Agreement to defer the calculation and payment of development charges beyond 36 months for the structures associated with the Illumi event until such time that the 2027 DC By-law is renewed by Council and the definition of temporary building or structure is reviewed for Council's consideration. If DC's are not levied on these temporary buildings or structures, the charges are ultimately collected in full when the property is redeveloped for the permanent use, which is expected to be the case for this property.



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