



## Local Government Housing Initiatives **Frequently Asked Questions for Bill 46**

**Version: February 28, 2024**

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*The following frequently asked questions have been collated from correspondence received from local governments and questions asked during recent webinars. This document will be updated with new questions and answers as they become available. Check the Version Date to confirm if new questions have been added.*

*This document contains general information only and should not be construed as legal advice. Local governments should obtain legal advice on the application of their legislative authorities and to ensure that their procedures and policies comply with legislation.*

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## Bill 46: Development Finance

1. Can local governments continue to negotiate community amenity contributions (CACs) on rezoning applications?

As per regular practice, local governments should obtain legal advice regarding CACs.

2. When will guidance be provided on the development finance changes made through Bill 46 and what will be included?

Interim guidance will be available by March. This interim guidance will provide information on:

- How to update or adopt new DCC/DCL bylaws to begin collecting for the new categories of eligible infrastructure; and
- The legislated requirements and key considerations for developing an ACC program and bylaw.

More comprehensive guidance on DCCs and ACCs will be available in late summer/early fall 2024.

3. What are some examples of the kinds of costs and projects that can be included in an ACC program?

ACCs can be collected for a wide variety of amenities including, but not limited to, a community, youth, or senior's centre; a recreational or athletic facility; a library, a public square. Additional examples of amenities could include community arts spaces, community museums, and streetscape gardens. Like DCCs, ACCs can only be used to fund the capital costs of amenities, which includes planning, engineering, construction, and interests costs attributable to an amenity project.

4. What are some examples of projects and costs that are eligible under the new DCC categories?

Examples of projects that can be included under the new DCC categories include:

- Fire protection facilities: firehalls, training facilities, staff quarters, and maintenance facilities.
- Police facilities: Municipal jails, cells, and holding facilities, training facilities, and community policing centres.
- Solid waste and recycling facilities: landfills, recycling depots and processing facilities, and compost facilities.

Capital projects under the new DCC categories must directly or indirectly service the new development and must be owned or controlled by the local government.

5. What cost-shared projects with the Province are now eligible under DCCs?

Bill 46 made amendments to allow municipalities to collect and use DCCs/DCLs to finance their portion of provincial highway facilities that are cost-shared between the province and the municipality.

Provincial policy determines which types of highway facilities can be financed using DCCs. Currently, eligible projects include:

- Interchanges
- Roundabouts
- Traffic signals and controls
- Pedestrian and highway bridges
- Transit provisions such as bus pull-ins, bicycle and pedestrian infrastructure.

6. Are local governments required to use these new tools?

No. As with existing development finance tools, it is up to each local government to decide whether to update/adopt new DCC bylaws or use the new ACC tool based on the approach they choose to take to help fund infrastructure and amenities required for growth.

7. Why can't the new amenity charge tool be used for affordable housing?

The ACC helps fund the costs of amenities needed to support increased population growth and housing supply. Affordable housing is not a community amenity. However, local governments can continue to use density bonus authorities to secure affordable housing from development as a condition of providing additional density.

The Province continues to explore new tools for local governments to provide funding for affordable housing.

8. Do ACCs apply to in-stream projects?

No. There are rules in the legislation to protect in-stream projects, which are generally defined as applications for a zoning bylaw amendment, development permit, or building permit that have been submitted to the local government and for which applicable fees have been paid, from new or increased ACC charges. A new ACC bylaw does not apply to these projects if the application has been received by the local government by the date the bylaw is adopted.

Like DCCs, an amended (or updated) ACC charge does not apply to an in-stream project if a building permit for the development is received within 12 months after the date the bylaw is amended.

9. What happens to local government contributions to affordable housing and amenities that have already been secured by council, but there is no ACC bylaw in place?

The legislation does not impact affordable housing and amenities that have already been secured.

#### 10. How do ACCs work with density bonus zoning?

Local governments can continue to use density bonus to collect for amenities and can apply both density bonus and ACCs on the same development (or use the tools separately on different developments or in different areas). However, local governments cannot use density bonus to collect for an amenity for which an ACC is being collected.

#### 11. Can ACCs be imposed on small-scale multi-housing developments?

Yes. ACCs can be imposed on any development that results in an increased population of residents or workers.

#### 12. Can an amenity be provided in-kind instead of a charge being imposed under the ACC legislation?

Yes. Local governments and developers can enter into an agreement in which the developer would provide an amenity or land for an amenity instead of the developer paying the ACC.

The agreement must include specific information, including details about when the amenity will be provided, who will provide the amenity, the value of the amenity, and any payment or credit to the developer if the value of amenity or land exceeds the ACC amount.

#### 13. Are any developments exempt from paying DCCs or ACCs?

The exemptions for DCCs remain the same as they were prior to Bill 46.

The following are exempted from ACCs:

- Places of public worship.
- Developments that do not result in an increase in population of residents or workers.
- Developments on which an ACC has already been imposed for a particular amenity unless further development results in an increase in population of residents or workers.
- Types of affordable housing that is prescribed by regulation.

#### 14. Does the ACC legislation prohibit local governments from acquiring amenities using other tools or through negotiation?

No. However, as per section 570.95 in the *Local Government Act* and 523R in the *Vancouver Charter*, the cost of any amenity project funded by an ACC can only be recovered once. For example, if an amenity is obtained through a phased development agreement, an ACC could not be imposed for that same amenity.

#### 15. Does the Inspector of Municipalities need to approve ACC bylaws?

No. ACC bylaws do not require approval from the Inspector of Municipalities.

16. Is there a deadline by which a local government must update their DCC bylaws or develop/adopt an ACC bylaw?

No. Local governments can choose to update or adopt DCC/DCL bylaws to collect for the new categories of eligible infrastructure or adopt an ACC bylaw at any time.

17. What kind of analysis is required or expected of local governments to consider if an ACC would deter development?

The legislation establishes the matters that a local government must consider when developing an ACC bylaw, but it does not establish the type of analysis that must be undertaken to determine if an ACC would deter development.

See section 570.7 in the *Local Government Act* and 523K in the *Vancouver Charter*.

Local governments are encouraged to use the same principles and best practices found in the Development Cost Charges Best Practices Guide when undertaking an analysis on the impact of charges on development viability.

18. What must a local government consider to determine the area where an ACC applies?

Local governments must consider the following when determining the area(s) where ACCs will be imposed:

- The applicable OCP and other relevant planning documents (e.g., housing needs reports, local area plans, public benefits strategies);
- Expected increases in population growth of residents and workers; and,
- The financial plan.

The ACC framework provides flexibility for local governments to determine the size and location of area(s) where ACCs will be imposed. This allows local governments to customize their ACCs across different areas in the community that may be experiencing varying levels of projected growth and experiencing different amenity needs.