

Deferred Development Charges to Occupancy

Questions on Occupancy/Deferred DC Implementation

Q/As may alter based on further questions and implementation issues that are identified by building officials.

New Provisions for Deferring Certain Development Charges (DCs)

1. What changes are being introduced to allow deferred municipal development charges for non-residential buildings?

The *Protect Ontario by Building Faster and Smarter Act, 2025* (Bill 17) amended the Development Charges Act, 1997, (DCA) to payment of the municipal (local/lower tier and regional/upper tier) portion of development charges for non-rental residential developments to be deferred from building permit issuance to either (a) before issuance of an occupancy permit or (b) before first occupancy of the building.

To operationalize this policy and improve collection certainty, the Minister of Municipal Affairs and Housing amended Ontario's 2024 Building Code (Ontario Regulation 163/24). Effective November 3, 2025, **occupancy permits** are now required for all non-rental residential projects with deferred development charges.

A municipality cannot issue the occupancy permit until it confirms the deferred development charges for non-rental residential buildings are paid in full.

What DCs Can Be Deferred?

2. What development charges continue to be due at building permit issuance and what development charges can now be deferred to occupancy for buildings subject to a deferred development charge under subsection 26.1 (3.1)?

For buildings where an applicant for a non-rental residential building selects to defer municipal DCs under s. 26.1(3.1), certain DCs are deferred to occupancy and others are due at permit issuance as before November 3, 2025.

Deferred to occupancy (for the eligible non-rental residential portion):

- Municipal DCs (local/single tier and regional/upper tier) levied under the DCA.

Still due at building-permit issuance (no change):

- Education Development Charges levied by school boards under the Education Act.
- Community benefit charges.
- Park land dedication.
- DCs on non-residential buildings.
- Any project not selecting the s. 26.1(3.1) deferral.

Rental DCs (unchanged):

- Existing rental and institutional deferrals under the DCA continue to apply as under current law.

No Written Agreement Needed

3. Is an agreement between the builder and the municipality required to defer municipal development charges for a non-rental residential building?

No written agreement is required. Under DCA s. 26.1(3.1), eligible non-rental residential DCs may be deferred to occupancy at the builder's choice, the builder may choose to pay all municipal DCs at building-permit issuance as before November 3, 2025 or may choose to pay anytime during the inspection timeline (prior to occupancy).

Applicable Law

4. Are deferred development charges under DCA s. 26.1 (3.1) applicable law under the Ontario Building Code?

Yes. The Development Charges Act remains "applicable law" under the Ontario Building Code. What changes is the timing of payment of the municipal development charges, which can be deferred until occupancy. It will still be necessary to complete the rate calculation of deferred DCs so that these can be collected at occupancy.

Issuing Building Permits

5. Can municipalities continue to issue a building permit for a building subject to deferred development charges under s. 26.1 (3.1)

Yes. Keep issuing building permits exactly the same way prior to November 3, 2025. The DCA/OBC change is a timing shift, not a new approval requirement. However, municipal building permit systems or workflows may need to be updated to reflect this change, including the requirement for an occupancy permit. For buildings subject to deferred municipal DCs, an occupancy permit will be required for these projects and must be withheld until deferred DCs are paid and validated. Refer to joint letter from OLMCBO/OBOA dated October 31, 2025, for additional information on suggested process.

Affected Buildings

6. What buildings are eligible for deferred municipal development charges under s. 26.1 (3.1)?

DCA s. 26.1(3.1) allows builders to choose to defer municipal DCs for all non-rental residential buildings:

- Non-rental residential (or in other words, ownership) buildings in municipalities that levy DCs, where the applicant has selected the s. 26.1(3.1) deferral.
- In mixed-use projects, the requirement of 26.1 applies to the portion of the building containing the non-rental residential units for which DCs are deferred. There are no changes to existing residential rental deferred DCs.

No changes to the following existing DC framework:

- Residential rental and institutional developments under s.26.1 of the DCA
- Non-residential components (industrial, commercial, and other institutional - paid as per current rules).
- Municipalities without a DC by-law.
- Projects with a section 27 agreement setting a different payment date(s).
- Projects with building permits issued before November 3, 2025.

10 Day Inspection Window

7. What buildings are included in the exception to allow up to 10 days to undertake an occupancy inspection following receipt of a prescribed notice of occupancy or completion? What about reinspection?

The extended window for an occupancy inspection following a prescribed notice applies only to buildings with DC deferral under DCA s. 26.1(3.1). All others remain on the standard 2-business-day timeline.

Why allow up to 10 business days (initial inspection):

- To verify full payment of the deferred DC amounts with finance/DC staff.
- To prompt/encourage payment where funds have not yet been received.
- To update permit records and workflows so the occupancy permit can be issued promptly after a successful technical safety inspection and payment confirmation.

Operational considerations:

- If deferred DCs are already paid and validated, municipalities should maintain the 2-business-day inspection timeline.
- Where payment is not yet validated, the up to 10-business-day timeline may be used to complete the verification and administrative steps above.

Reinspection:

- After an initial occupancy inspection identifies outstanding items (e.g., technical safety corrections), municipalities are encouraged to complete occupancy re-inspections within 2 business days of notice where deficiencies have been addressed, and payment is validated.

Occupancy Permit Changes

8. What are the new requirements for an occupancy permit for a building subject to s. 26.1 (3.1)?

All buildings subject to a non-rental residential DC deferral under DCS s. 26.1(3.1), will require an occupancy permit. These changes come into effect for building permits for non-rental residential buildings issued after filing of the amendment to Ontario's Building Code on November 3, 2025. See OBC for occupancy amendments in Division C.

First Occupancy

9. What is considered to be first occupancy of a building subject to DCA s. 26.1 (3.1) non-rental residential deferred development charge?

Bill 17, the Protect Ontario by Building Faster and Smarter Act, 2025, amended the DCA to defer payment of DCs until the earlier of:

- The day the permit is issued under the Building Code to authorize occupation of the building; and
- The day the building is first occupied.

The DCs would be payable in full for the non-rental residential portion of a development at the time that the building in which the residential units are located receives the first occupancy permit. DCs for a non-residential portion of a building would be payable as before November 3, 2025, generally on issuance of a building permit.

Multiple Use Buildings

10. What are the occupancy requirements for a building where only some of the building is subject to subsection 26.1 (3.1) deferred development charge (e.g. other parts of the building are rental, non-residential or other uses)?

The new occupancy-permit requirement applies only to the non-rental residential building/portion for which a valid DCA s. 26.1(3.1) deferral is selected. Other parts of the project follow existing occupancy rules.

Payment

11. What constitutes payment of deferred DCs? Does payment include both local and regional DCs?

“Payment” has the same meaning your municipality already uses for DC collection in comparable circumstances under its DC by-law and finance policies, or in other words full remittance of the deferred DCs owing for the non-rental residential portion. **This includes both local/single-tier and regional/upper-tier DCs.**

To issue an occupancy permit the municipality should consider:

- Standard municipal proof of payment (as is already utilized): confirmation from finance/DC staff that the net deferred amount is paid in full, using the municipality’s usual criteria (e.g., cleared EFT/cheque, certified funds, etc.).
- If partial or pending funds do not satisfy payment.
- Where a DCA s. 27 agreement sets a different timing/amount, continue to follow that agreement.

Occupancy Without Payment of Deferred DCs

12. Can a building subject to subsection 26.1 (3.1) deferred development charge be occupied if the deferred development charge has not been paid?

No. For projects where a valid s. 26.1(3.1) deferral is selected, the building cannot be occupied until an occupancy permit is issued, and the CBO must withhold the occupancy permit until the municipality confirms full payment of all deferred municipal DCs—this includes both local/single-tier and regional/upper-tier DCs.

Compliance for Occupancy Without a Permit

13. What are the municipal enforcement options for a building subject to subsection 26.1 (3.1) deferred development charge that has been occupied without a permit?

Occupying a building without the required occupancy permit is a Building Code Act contravention. Apply your standard enforcement sequence. Start with an Order to Comply (registration of OTC is recommended), then escalate in keeping with your municipal practices if non-compliance persists.