

## **Development Charge Interest Policy – Under sections 26.1 and 26.2 of the *Development Charges Act, 1997 - REVISED***

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Approved By: Regional Council

Approved On: November 25, 2021

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### **Policy Statement**

A policy governing the charging of interest, as permitted under sections 26.1 and 26.2 of the *Development Charges Act, 1997*.

### **Application**

This policy applies to the charging of interest, as permitted under sections 26.1 and 26.2 of the *Development Charges Act, 1997*. This includes all types of development in York Region:

- That are eligible for instalment payments under section 26.1 of the *Development Charges Act, 1997*
- Under section 26.2 of the *Development Charges Act, 1997*, where an application has been made for:
  - Approval of development in a site plan control area under subsection 41(4) of the *Planning Act, 1990*, or
  - An amendment to a bylaw passed under section 34 of the *Planning Act, 1990*

### **Purpose**

The purpose of this policy is to establish the rules and practices for charging interest, as permitted under sections 26.1 and 26.2 of the *Development Charges Act, 1997*.

This policy will support York Region’s ability to build growth-related infrastructure in a way that is fiscally sustainable and will help achieve the following outcomes:

- Good government providing reliable Regional programs and services
- Continued delivery of complete communities in a fiscally sustainable way
- Fair and equitable treatment of all stakeholders involved in delivering housing supply, including residents, businesses, municipalities and developers

## Definitions

**Act:** The *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended, revised, re-enacted or consolidated from time to time, and any successor statute

**Development:** The construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or changing the use from non-residential to residential or from residential to non-residential and includes redevelopment

**Development Charges:** The Region's development charges, including any area-specific development charges

**Total Accrued Amount:** Equal to the total of the development charges and interest which has accrued

## Description

### 1. Legislative Framework

#### a) Installment Payments under section 26.1 of the Act

Under subsections 26.1(1), (2) and (3) of the Act, development charges will be paid in equal annual instalments, beginning at the earlier of first occupancy or occupancy permit under the *Building Code, Act, 1992*, for:

- Rental housing development that is not non-profit housing development
- Institutional development
- Non-profit housing development

#### b) Interest on Installment Payments under section 26.1 of the Act

Subsection 26.1(7) of the Act allows a municipality to charge interest on the instalments from the date the development charges would have been payable, under section 26 of the Act, to the date the instalment is paid, at a rate not exceeding the prescribed maximum interest rate.

c) Development Charge Freeze under section 26.2 of the Act

Under subsection 26.2(1) of the Act, the total amount of a development charge is determined under the Region's Development Charge Bylaw on:

- i) The day an application for an approval of development under subsection 41(4) of the Planning Act was made, or
- ii) If clause (i) does not apply, the day an application for an amendment to a bylaw passed under section 34 of the Planning Act was made.

d) Interest under section 26.2 of the Act

Under subsection 26.2(3) of the Act, a municipality may charge interest on the development charge, at a rate not exceeding the prescribed maximum interest rate, from the date of the application referred to in clause c(i) or c(ii) to the date the development charge is payable.

e) Maximum Interest Rate under sections 26.1 and 26.2

The Act allows a municipality to charge interest on the development charge at a rate not exceeding the prescribed maximum interest rate.

There is no prescribed maximum interest rate under subsections 26.1 and 26.2 of the Act.

## **2. Interest Rate Used**

- a) An interest rate of 5% will be used.
- b) Notwithstanding clause 2(a), a rate of 0% will be used for payments under section 26.1, beginning at building permit, for developments that have taken advantage of a Regional development charges incentive and/or relief, current or future.

## **3. Amendment or Revision to Interest Rates:**

In the event the interest rate is amended or revised, the new interest rate will apply to the total accrued amount, prorated from the date of the interest rate amendment or revision to:

- The date the total accrued amount is fully paid, or
- A subsequent amendment or revision of the interest rate

#### **4. Interest Rate Publication and Notification**

Upon Council approval, this policy and the interest rates being used will be made available on the Region's [development charges website](#).

The interest rates will also be published as part of the Region's development charges pamphlet publication.

#### **5. Compounding and Prorating:**

All interest will be compounded annually and will accrue from the date of the applicable application until the date the total accrued amount is fully paid. A 365-day calendar year will be used for the purposes of prorating.

##### a) Subsequent Application(s)

If a subsequent application(s) is made for a development:

- The date the subsequent application is made will become the new date under which the total amount of the development charge is determined
- All interest that had accrued prior to the subsequent application will be deemed to be zero
- Interest will be compounded annually and begin to accrue from the date the subsequent application is made

##### b) Interest under section 26.1

If a development was one of the eligible types of development for the instalment payments under section 26.1 of the Act, the total accrued amount will continue to accrue interest from the date of the issuance of a building permit.

During the instalment timeframe, interest will continue to accrue on the outstanding balance. This will continue until the date the total accrued amount has been fully paid.

#### **6. Transition**

To allow for a transition period, this policy does not apply to any development where:

##### a) An application under sections 34 or 41(4) of the Planning Act is not required, but:

- Still qualifies for instalment payments under section 26.1 of the Act, and
- Has been issued a building permit for development by a local municipality prior to July 1, 2020

- b) An application under subsection 41(4) of the Planning Act is:
- Made after January 1, 2020, and
  - Has been issued a building permit for development by a local municipality prior to July 1, 2020
- c) An application for an amendment to a bylaw passed under section 34 of the Planning Act is:
- Made after January 1, 2020, and
  - Has been issued a building permit for development by a local municipality prior to July 1, 2020

## 7. Grace Period

Where the local municipality has provided certification and a grace period for the payment of the total accrued amount payable, the Region may provide a grace period matching that of the local municipality, but not to exceed 14 calendar days.

For greater clarity, this grace period, if provided, would only apply to the total accrued amount payable under section 26.2 of the Act.

In the event a grace period is provided by the Region, and the total accrued amount payable is not paid within this time, the new total accrued amount payable will include the number of days in the grace period and no further grace period will be provided.

## 8. Effective Date

Upon approval by Council, this policy will take effect as at January 1, 2020 at 12 a.m. This policy may be repealed and/or modified by Council at any time.

# Responsibilities

## Director, Treasury Office, Finance

- Administer this policy, including but not limited to:
  - Assisting stakeholders in determining the total amount of the development charge that would be determined under the bylaw and the applicable interest rate that would apply
  - Ensure the total accrued amount is being charged and collected when due
- Work with local municipalities to ensure the policy is administered correctly

### **Director, Strategy and Transformation, Finance**

- Collect all development charges, including interest, when due and payable

### **Director, Community Planning and Development Services, Corporate Services**

- Confirm, in consultation with local municipality, that a complete application was made for the purposes of determining the total amount of the development charge

## **Compliance**

The **Director, Treasury Office** will monitor all development applications, and in consultation with the **local municipality** ensure the correct amount of the development charge is being used.

The **Director, Treasury Office** will ensure that this policy is being administered correctly.

The **Director, Strategy and Transformation**, in consultation with the **Director, Treasury Office** and the **local municipality**, will ensure the correct amount is being used to determine the total development charge collections, and that the correct amount of interest has been received.

## **Reference**

### **Legislative and other authorities**

- [Bill 108, More Homes, More Choice Act, 2019](#)
- [Bill 138, Plan to Build Ontario Together Act, 2019](#)
- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 454/19](#)
- [Ontario Regulation 82/98](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)
- [York Region Development Charges Bylaw No. 2017-35](#)
- [York Region Development Charges Bylaw Amendment No. 2018-42](#)

## Appendices

- Council Report, [Potential Development Charge Bylaw Amendment and Interest Policy - Bill 108, More Homes, More Choice Act, 2019](#), February 27, 2020
- Council Report, [2022 Development Charges Bylaw: Policy Directions, November 25, 2021](#)

## Contact

Director, Treasury Office, Finance, at extension 71644

Director, Community Planning, Corporate Services, at extension 71505

## Approval

Council Date: November 25, 2021	Committee Date: November 11, 2021
Council Minute Item: G.1	Committee Minute Item: I.2.2

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