

## **Development Charges Deferral for Office Buildings a Minimum of 75,000 square feet and on the Regional Centres and Corridors or specific Local Centres – Pilot Program – REVISED**

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Approved By: Regional Council

Approved On: June 24, 2021

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### **Policy Statement**

A policy governing the deferral of Regional development charges and area-specific development charges for office buildings that meet the following criteria:

1. A minimum of four storeys above grade
2. A minimum of 75,000 square feet of gross floor area
3. Located on the Regional Centres and Corridors, or on specific Local Centres for those local municipalities without lands on Regional Centres and Corridors

### **Application**

Subject to the terms and conditions as set out in this policy, this policy is available for office buildings that meet the following criteria:

- A minimum of four storeys above grade
- A minimum of 75,000 square feet of gross floor area
- Located on the Regional Centres and Corridors, or on specific Local Centres for those local municipalities without lands on Regional Centres and Corridors

The specific Local Centres to which the policy applies are:

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- Georgina: Keswick Secondary Plan Urban Centres as well as applicable portions of the Woodbine Corridor
- King: Core Areas in King City and Nobleton, as well as the King City Go Station Area
- Whitchurch-Stouffville: Community Core Area and Western Approach Area within the Community of Stouffville

## Purpose

The purpose of this policy is to incentivize the development of additional larger office buildings on the Regional Centres and Corridors or on specific Local Centres to:

- Encourage 'place-making' through a mix of uses
- Promote live/work within the Region
- Make better use of significant infrastructure investments made by the Region and local municipalities, including transit
- Help to grow the Region's property assessment base both from the new office development and from the surrounding complementary development (both residential and non-residential)
- Help to alleviate north-south congestion on the roads network as residents have increased opportunities to work within the Region

## 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 thereof 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

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**Gross Floor Area:** As defined in the Region’s Development Charges Bylaw No. 2017-35 as amended by Regional Development Charges Bylaw No. 2018-42 or any successor development charges bylaw

**Local Centres:** The specific Local Centres that qualify under this policy are:

- Georgina: Keswick Secondary Plan Urban Centres as well as applicable portions of the Woodbine Corridor
- King: Core Areas in King City and Nobleton, as well as the King City Go Station Area
- Whitchurch-Stouffville: Community Core Area and Western Approach Area within the Community of Stouffville

**Office:** As defined in the Region’s Development Charges Bylaw No. 2017-35 as amended by Regional Development Charges Bylaw No. 2018-42 or any successor development charges bylaw

**Regional Centres and Corridors:** The Regional Centres are depicted on Map 1 – Regional Structure, York Region Official Plan

- Markham Centre (Highway 7 and Warden Avenue)
- Newmarket Centre (Yonge Street and Davis Drive)
- Richmond Hill/Langstaff Gateway (Highway 7 and Yonge Street)
- Vaughan Metropolitan Centre (Highway 7 and Jane Street)

For further information on areas identified as Regional Corridors please contact the Director of Community Planning at extension 71505

**Schedule ‘I’ Bank:** As referenced in subsection 14(1)(a) of the *Bank Act*, S.C. 1991, c. 46. These are domestic banks and are authorized under the *Bank Act* to accept deposits, which may be eligible for deposit insurance provided by the Canadian Deposit Insurance Corporation

**Storey:** A storey must be above grade and is the portion of a building:

- (a) that is situated between the top of any floor and the top of the floor next above it, or
- (b) that is situated between the top of the floor and the ceiling above the floor, if there is no floor above it

## Description

### 1. Applications Previously Submitted

Any developer wishing to defer development charges for an office building covered under this policy who submitted a site plan application or zoning bylaw amendment application prior to Council's original approval of this policy, on October 17, 2019, may enter into a development charges deferral agreement with the Region:

- Subject to the terms and conditions of this policy
- Provided the development charges deferral agreement and the issuance of the building permit for the office building by the local municipality are prior to the date that is three years immediately after Council approved the original policy, on October 17, 2019

This Term will be subject to Extension of Time provisions in Term '19'.

### 2. Expression of Interest Agreement – Applications Not Previously Submitted

Any developer wishing to defer development charges for an office building covered under this policy who had not submitted a site plan application or zoning bylaw amendment application prior to the original Council approval of this policy, on October 17, 2019, may enter into a development charges deferral agreement with the Region

- Subject to the terms and conditions of this policy
- Provided they first enter into an expression of interest agreement with the Region

The ability to enter into an expression of interest agreement will begin on the date that Council approved the original policy, on October 17, 2019, and will end on the date three years after approval of this policy at 4:30 p.m.

The developer will only qualify to enter into an expression of interest agreement if, during the duration of this three-year period, they have:

- Submitted a complete site plan application or zoning bylaw amendment application as determined by the local municipality for the construction of the office building, or
- Submitted an amendment to an existing application that results in additional gross floor area which is a minimum of 75,000 square feet threshold

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This expression of interest agreement, between the developer and the Region, will secure an option for the developer to enter into a development charges deferral agreement with the Region provided that:

- The square footage cap under Term '4' of this policy has not already been met
- The developer agrees to all of the Terms outlined in this policy

This Term will be subject to Extension of Time provisions in Term '19'.

### **3. Development Charges Deferral Agreement**

Any developer wishing to defer development charges for an office building covered under this policy, including those who already entered into an expression of interest agreement with the Region, must also enter into a development charges deferral agreement with the Region.

A development charges deferral agreement will only be executed by the Region provided that the developer can immediately upon execution of the agreement attain building permit issuance by the local municipality.

### **4. Development Charges Deferral Agreement – Rules**

This policy will only be available to the first 1.5 million square feet of gross floor area that enters into a development charges deferral agreement(s) with the Region. It will be available on a first-come, first served basis.

Any developer who had entered into an expression of interest agreement must enter into a development charges deferral agreement within five years of the submission of a complete site plan application or zoning bylaw amendment application or an amendment to an existing application that results in additional gross floor area.

In the event more than one office building wishes to enter into a development charges deferral agreement with the Region on the same day, the result of which would exceed the square footage cap, it will be up to the Commissioner of Finance and the Chief Administrative Officer to determine qualification and whether the square footage cap may be exceeded.

This Term will be subject to Extension of Time provisions in Term '19'.

### **5. Duration of the Deferral**

a. Duration

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The duration of the development charges deferral will vary based on the eligible gross floor area of the building and will be in accordance with Table 1 below.

**Table 1**  
**Duration of Development Charges Deferral**

<b>Gross Floor Area Size Threshold</b>	<b>Duration of Development Charges deferral available on Regional Centres and Corridors <u>or</u> on specific Local Centres</b>
Between 75,000 square feet and 150,000 square feet	5 year*
Between 150,000 square feet and 250,000 square feet	10 year*
Greater than 250,000 square feet and less than or equal to 400,000 square feet	15 year*
Greater than 400,000 square feet	20 year*

\*Note: Once threshold is crossed, entirety of gross floor area in office building is deferred for this timeframe

b. Start date

1. Development charges are deferred until 15 days immediately following the date that is 5 years, 10 years, 15 years, or 20 years (as applicable) after the date that the building permit is issued by the local municipality, for
  - Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for an office building prior to January 1, 2020, or
  - Applications submitted for an amendment to a by-law passed under section 34 of the *Planning Act* prior to January 1, 2020
2. Development charges are deferred until 15 days immediately following the date that is 5 years, 10 years, 15 years, or 20 years (as applicable) after the earlier of the date of the issuance of a permit under the *Building Code Act, 1992*, authorizing occupation of the building or the date the building is first occupied, for

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- Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for an office building including and after January 1, 2020, or
- Applications submitted for an amendment to a by-law passed under section 34 of the Planning Act including and after January 1, 2020

If the occupation of the building is not authorized by a permit under the *Building Code Act, 1992*, the developer must notify the Region within five business days of the building first being occupied, whereupon the deferral period will begin. Failure to notify the Region within five business days of the building first being occupied will constitute a material default of the deferral agreement.

Development charges will be payable prior to the timeframe indicated in Table 1 should any of the following trigger events occur:

- Change of use from an office building
- Sale, or transfer of ownership, of the property unless an assumption agreement is entered into
- Any other material default as defined in the agreement(s)

Notification to the owner of the property on the tax roll will occur immediately after the trigger event. The 15 business days will begin with the mailing, by registered mail, of notice.

### 6. Development Charges Rates

The development charges rate will be the amount determined under the applicable development charges bylaw:

- a. Day of building permit issuance
  - i. Applications submitted for approval of a development in a site plan control area under subsection 41(4) of the Planning Act for an office building prior to January 1, 2020, or
  - ii. Applications submitted for an amendment to a bylaw passed under section 34 of the *Planning Act* prior to January 1, 2020

- OR -

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- b. Day of application –
  - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for an office building including and after January 1, 2020, or
  - ii. Applications submitted for an amendment to a bylaw passed under section 34 of the Planning Act including and after January 1, 2020

For greater clarity, if clauses b(i) or b(ii) do not apply to an office building that is seeking to defer development charges including and after January 1, 2020, the development charges rate is determined on the day the development charges is payable in accordance with section 26 of the Act.

### **7. Development Charges Payable**

The amount of development charges payable to the Region, as required under the Act, will be based on the rates determined under Term '6' of this policy multiplied by the gross floor area of the office building, of which will be determined on the day that the developer enters into a development charges deferral agreement with the Region.

For greater clarity, qualifying gross floor area will only be on a per building basis.

### **8. Interest Waiver**

All interest will be calculated using the development charges payable in Term '7' to this policy until the date upon which the development charges are fully paid.

All deferred development charges will bear interest at the prime commercial lending rate charged by an agreed upon 'Schedule I' commercial bank on demand loans in Canadian funds to its most creditworthy customers plus 2% per annum. All interest will accrue and be compounded.

The time period will be calculated beginning on the date of issuance of the building permit for the proposed structure by the local municipality.

The Region will forgive all amounts due and owing on account of interest, provided that the development charges, are paid in full to the Region at the time required (within 15 business days immediately following notification of a trigger event as defined in Term '5' of this policy).

In the event unpaid development charges are added to the tax roll (Term '11'); interest will continue to accrue and be compounded until all outstanding charges are fully paid.



## **9. Duration of Development Charges Deferral for Office Buildings a Minimum of 75,000 square feet and on the Regional Centres and Corridors – Pilot Policy**

This policy took effect on the day upon which it was originally approved by Council, on October 17, 2019.

This policy will expire eight years after the date of Council approval (October 17, 2019), at 4:30 p.m. An eight-year period takes into consideration two factors:

- A developer may enter into an expression of interest agreement any time during the three period, commencing immediately after Council approval and ending three years later at 4:30 p.m.
- Under Term '4' of this policy, any developer who had entered into an expression of interest agreement must enter into a development charges deferral agreement within five years of the submission of a complete site plan application or zoning bylaw amendment application or an amendment to an existing application that results in additional gross floor area.

Notwithstanding the above eight year expiration, this policy will be extended by four years to reflect the two year Extension of Time provisions, as they apply, in Term 19 of policy.

## **10. Local Participation**

The Region will only enter into a development charges deferral agreement if the local municipality has provided a similar, if not better, deferral, exemption, or other incentive, for the proposed building.

It will be up to the Commissioner of Finance and/or the Chief Administrative Officer, in consultation with the Chief Planner, to decide what constitutes "similar, if not better", but this may be determined by looking at:

- Whether or not there is a prescribed timeframe for the deferral
- Whether or not interest is waived
- Other incentives that may be provided, be they financial or otherwise

## **11. Unpaid Development Charges**

If any development charges (including any interest) are unpaid within 15 business days immediately following notification of a trigger event identified in Term '5' of this policy, or at the end of the development charge deferral timeframe when payment

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has not been made, those development charges (including interest) will be added to the tax roll and collected in the same manner as taxes (in accordance with section 32 of the Act).

In the event unpaid development charges are added to the tax roll; interest will continue to accrue and be compounded until all outstanding total charges are fully paid (development charges + interest).

### **12. Security**

A form of security will be taken and registered against the title to the property, at the execution of the development charges deferral agreement with the Region. The Region's security interest will always be, at minimum, *pari passu*, or of equal footing, to that of the local municipality offering a similar, if not better, deferral of development charges.

### **13. Other Agreements Required**

In addition to the requirements that the developer enter into an expression of Interest agreement and a development charges deferral agreement with the Region, the developer will enter into any other agreements as required by the Regional Solicitor. Additional agreements include, but may not be limited to:

- Charge
- Assignment of Rents
- Restrictive Covenant
- *Pari Passu* Agreement
- General Security Agreement
- Other agreement(s) as deemed necessary

### **14. Legal Fees**

All legal fees of the developer(s) and Region, including any costs incurred by the Region to prepare any other agreements required by the Regional Solicitor, will be borne by the developer.

### **15. Report Back to Council**

Staff will report back to Council prior to the end of this Council term, on the results of the pilot policy and provide a recommendation on whether additional steps should be taken to further facilitate office development in Regional Centres and Corridors.

This Term will be subject to Extension of Time provisions in Term '19'.

## **16. Non-Applicability – 18-month Development Charges Deferral**

For greater clarity, any Office Building that avails itself of the deferral under this policy is not eligible for the Region's 18-month development charges deferral for office buildings greater than four (4) storeys.

## **17. Multiple Use Buildings**

This policy does apply to office uses in a multiple use building.

However, for greater clarity, this policy does not apply to the non-office uses within any multiple use building, a part of which is an office use or building that is a minimum of 75,000 square feet.

## **18. Mixed-Use Developments**

For greater clarity, this policy does not apply to the residential or any other non-residential development charges due for any mixed-use development, a portion of which is an office building or use that is a minimum of 75,000 square feet.

## **19. Extension of Time**

References to time, or time between events in Terms '1', '2', and '4' will be extended by two years.

The minimum timeframe to report back to Council, as required under Term '15', will be extended by two years.

## **20. Effective Date**

This policy will take effect the day it is passed by Regional Council and may be repealed by the Region at any time

## **Responsibilities**

### **Chief Administrative Officer, Regional Municipality of York**

- Responsibilities as identified under the Terms of this policy
- Signing of security agreements

### **Commissioner of Finance, Finance Department**

- Responsibilities as identified under the Terms of this policy

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- Signing of security agreements and expression of interest agreements

### **Regional Solicitor, Legal Services**

- Draft and prepare for execution the deferral agreement between Region and the developer
- Draft and prepare for execution the expression of interest agreement between the Region and the developer
- Draft and prepare for execution any additional agreements required
- Registration of security on title

### **Chief Planner, Planning and Economic Development, Corporate Services Department**

- Responsibilities as identified under the Terms of this policy

### **Director, Treasury Office, Finance Department**

- Administer the deferral policy, including assisting stakeholders in determining if they qualify for the policy, the development charges rates to be applied, the amount of qualifying gross floor area and the development charges payable
- Enforce the deferral policy
- Collect all development charges when due
- Monitor timing of payment to ensure compliance with Term '8' of the policy
- Notify, through the Commissioner of Finance, to the treasurer of the local municipality if development charges are not paid/received within the prescribed timeframe and to have said charges added to the tax roll of that municipality
- Undertake any additional administrative obligations as determined through the agreements
- Maintain copies of all executed deferral agreements and other agreements as required

### **Director, Community Planning, Planning and Economic Development**

- Assist in identifying structures as within the Regional Centres and Corridors

## **Compliance**

Immediately upon the occurrence of any of the trigger events identified in Term '5' of this policy, the **Director, Treasury Office** will notify the owner of the property on the tax

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roll that development charges are due within 15 business days, the timing of which will begin with the mailing, by registered mail, of notice.

The **Director, Treasury Office** will also monitor the payment of the development charges due in order to ensure interest is only forgiven (Term '8' of the policy) when the development charges are paid in full to the Region within 15 business days immediately following notification of a trigger event.

## Reference

### Legislative and other authorities

- Development Charges Act, 1997, S.O. 1997, c. 27
- Ontario Regulation 82/98
- Planning Act, R.S.O. 1990, c. P.13
- The Regional Municipality of York - York Region Development Charges Bylaw - No. 2017-35
- The Regional Municipality of York – York Region Development Charge Bylaw Amendment N. 2018-42
- York Region Official Plan, Map 1 - Regional Structure

### Appendices

- Council Report, Potential Financial Incentives for Office Buildings, June 27, 2019
- Council Report, Large Office Building Development Charge Deferral Pilot Program, October 17, 2019
- Memorandum, Financial incentives for affordable rental housing and large office buildings, October 17, 2019
- Council Report, Extension of Large Office and Affordable Rental Development Charges Deferrals Due to the Pandemic, June 24, 2021

## Contact

- Director, Treasury Office, Finance Department at extension 71644

## Approval

Council Date: June 24, 2021	Committee Date: June 10, 2021
Council Minute Item: G.1	Committee Minute Item: I.2.9

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Accessible formats or communication supports are available upon request.