

Development Charges Deferral for Office Buildings

Approved By: Council

Approved On: October 17, 2019

Policy Statement

A policy governing the deferral of Regional development charges and area-specific development charges, as the case may be, for office buildings that are a minimum of four (4) storeys that are above grade.

Upon the date a community benefits charges bylaw is adopted by Regional Council and comes into effect, this policy shall include the deferral of the Regional community benefits charges applicable to office buildings.

Application

This policy is available for office buildings in the Regional Municipality of York subject to the terms and conditions as set out in this policy. In order to be eligible, the development must be a minimum of four (4) storeys that are above grade.

Purpose

The purpose of this policy is to incentivize the development of office buildings that are a minimum of four (4) storeys and that are above grade. Additional office buildings in the Region could achieve the following benefits:

- 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 due to land use synergy (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.

Community Benefits Charges: The Region's Community Benefits Charges, established by a Community Benefits Charges Bylaw, under Section 37 of the *Planning Act*, R.S.O. 1990, c. P. 13, 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 the area-specific wastewater development charges for the Village of Nobleton.

Letter of Credit: A form of financial security issued by a financial institution that guarantees payment or performance by one or more counterparties to a beneficiary (the Region). At any time, the beneficiary reserves the right to draw upon the security up to a specified total in the event of default or non-delivery.

Office Building: Means a building or a structure used or designed or intended for use for the practice of a profession, the carrying on of a business or occupation or the conduct of a non-profit organization and shall include but not be limited to the office of a physician, lawyer, dentist, architect, engineer, accountant, real estate or insurance agency, veterinarian, surveyor, appraiser, financial institution, contractor, builder, land developer

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

Valuation Date: This means, for the purposes of Community Benefits Charges, with respect to land that is the subject of development or redevelopment:

- a) The day before the day the building permit is issued in respect of the development or redevelopment, or
- b) If more than one building permit is required for the development or redevelopment, the day before the day the first permit is issued

Description

Terms of the deferral policy

A. Development Charges Deferral

Upon site plan approval and prior to building permit issuance, any developer wishing to defer Development Charges for office buildings that are a minimum of four (4) storeys must provide the Region with a Letter of Credit for the Development Charges owed.

For greater clarity, all of the foregoing in Term 'A' shall apply to Community Benefits Charges when a Community Benefits Charges bylaw has been adopted and is in effect.

B. Letter of Credit

The submitted Letter of Credit must:

- Be printed on letterhead from the issuing financial institution
- Comply with the International Standby Practices (ISP98) or its successor as published by the International Chamber of Commerce
- Be denominated in Canadian dollars in an amount requested by the Region
- Include an automatic renewal provision where the agreement is to be in place for more than one year
- Indicate that the Region will be given 30 days' notice by registered mail if the counterparty does not intend to renew
- Refer to a renewal schedule described in the agreement where the value of any Letter of Credit renewals or extensions are subject to changes from the original Letter of Credit amount

- Conform to the intent of the standard format provided in **Attachment A**. Any deviation from the standard format will be subject to review by the Region and may be refused for non-compliance

A letter of guarantee or confirmation may be requested from time to time as evidence of capacity to secure a Letter of Credit. However, at no time shall a letter of guarantee or confirmation serve as an acceptable alternative to a Letter of Credit. Letters of guarantee or confirmation must indicate that the financial institution is willing to provide a Letter of Credit in a format and within a time period deemed acceptable to the Region.

For all other details regarding the requirements of the Letter of Credit, please see the Region's Letter of Credit Policy, as amended, revised, re-enacted or consolidated from time to time.

For greater clarity, all of the foregoing in Term 'B' shall apply to Community Benefits Charges when a Community Benefits Charges bylaw has been adopted and is in effect.

C. Duration of the deferral

- i) Where an application is 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 section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* being proclaimed, or for an office building for which an application for an approval of a development in a site plan control area under subsection 41 (4) of the *Planning Act* does not apply but which has submitted an application for an amendment to a by-law passed under section 34 of the *Planning Act* prior to section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* being proclaimed; the deferral period shall begin the day a building permit is issued by the local municipality.

Development Charges are therefore deferred until eighteen (18) months after the date that the building permit is issued by the local municipality.

- ii) Where an application is submitted for approval of a development in a site plan control area under subsection 41 (4) of the *Planning Act* for an office building after section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* is proclaimed, or for an office building for which an application for an approval of a development in a site plan control area under subsection 41 (4) of the *Planning Act* does not apply, but has submitted an application for an amendment to a by-law passed under section 34 of the *Planning Act* after section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* is proclaimed; the deferral period

shall begin on 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.

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 (5) business days of the building first being occupied, whereupon the deferral period will begin.

Development Charges are deferred until the date that is eighteen (18) months 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 greater clarity, all of the foregoing in Term 'C' shall apply to Community Benefits Charges, when a Community Benefits Charges bylaw has been adopted and is in effect.

D. Development Charges rates

The Regional development charges rate, or area-specific development charges rate, as the case may be, shall be the amount determined under the applicable Regional development charges bylaw, or area-specific development charges bylaw, as the case may be, on:

- i) The day that the building permit is issued for the construction of the office building by the local municipality if an application for an approval of development in a site plan control area under subsection 41 (4) of the *Planning Act* or an application for an amendment to a by-law passed under section 34 of the *Planning Act* was submitted prior to section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* being proclaimed
- ii) The day an application for an approval of development in a site plan control area under subsection 41 (4) of the *Planning Act* was made in respect of the development that is the subject of the Development Charges or if an application for an approval of development in a site plan control area under subsection 41 (4) of the *Planning Act* does not apply, the day an application for an amendment to a by-law passed under section 34 of the *Planning Act* was made in respect of the development that is the subject of the Development Charges if either application was submitted after section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* being proclaimed

- iii) If clause (ii) does not apply to an office building that is seeking to defer Development Charges after section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* has been proclaimed, the Development Charges rate is determined on the day the Development Charges is payable in accordance with section 26 of the Act

For greater clarity, when a Community Benefits Charges bylaw has been adopted and is in effect, the Community Benefits Charges rate will be set on the day that the building permit is issued for the construction of the office building by the local municipality and shall be capped based on the prescribed percentage at the Valuation Date.

E. Development Charges payable

The amount of the Development Charges payable to the Region, as required under the Act, shall be based on the rates determined under Term 'D' of this policy multiplied by the gross floor area of the office building, of which shall be determined on the day that the developer provides the Region with a Letter of Credit. Actual monetary value of the development charges will be received via draw upon the Letter of Credit.

For greater clarity, when a Community Benefits Charges bylaw has been adopted and is in effect, the Community Benefits Charges payable shall be set on the day that the building permit is issued for the construction of the office building by the local municipality and shall be capped based on the prescribed percentage at the Valuation Date.

F. Interest waiver

No interest shall be charged as the Region is in receipt of a Letter of Credit.

G. Section 26.1 of the Act

For greater clarity, any office building to which section 26.1 applies (upon the date that the section is proclaimed) and that opts to pay Development Charges in instalments in accordance with section 26.1 of the Act, shall not be entitled to also avail itself of the deferral under this policy.

H. Effective date

The amendments to this policy shall take effect the day it is passed by Regional Council and may be repealed by the Region at any time.

Responsibilities

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, and the Development Charges payable
- Enforce the deferral policy
- Collect all Development Charges when due
- Collect all Community Benefits Charges when due (when in-effect)

Director, Strategy and Transformation, Finance Department

- Process the draw upon the letter of credit at the point Development Charges are due (for example, end of deferral period)
- Process the draw upon the letter of credit at the point Community Benefits Charges are due (when in-effect) (for example, at end of deferral period)

Compliance

The Director, Strategy and Transformation shall process the draw upon the letter of credit at the point Development Charges are due (for example, end of deferral period).

Reference

Legislative and other authorities

- [Bill 108, More Homes, More Choice Act, 2019](#)
- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 82/98](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)

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
- Council Report, [Letter of Credit Policy](#), April 18, 2013
- [Letter of Credit Policy](#), April 18, 2013

Contact

Director, Treasury Office, Finance Department at extension 71644

Approval

Council Date: October 17, 2019	Committee Date: October 10, 2019
Council Minute Item: G.3	Committee Minute Item: E.2.2

#10249026

Accessible formats or communication supports are available upon request.

THE REGIONAL MUNICIPALITY OF YORK
STANDARD DOCUMENTATION FOR LETTERS OF CREDIT

(insert bank letterhead)

LETTER OF CREDIT NO. _____

DATE: _____

APPLICANT: _____

IRREVOCABLE LETTER OF CREDIT

BENEFICIARY: The Regional Municipality of York
17250 Yonge Street, Box 147
Newmarket, Ontario, Canada L3Y 6Z1

We hereby authorize you to draw on _____
(Bank, Address, Postal Code)

for account of _____
(name of Applicant)

up to an aggregate amount of _____ Dollars (\$_____)

available on demand as follows:

Pursuant to the request of our customer, the said _____,
(name of Applicant)

we _____
(name of Bank)

hereby establish and give to you an Irrevocable Letter of Credit in your favour in the total amount of

_____ DOLLARS (\$_____) CAD

which may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you which demand we shall honour without enquiring whether you have a right as between yourself and our said customer to make such demand and without recognizing any claim of our said customer.

Provided, however, that you are to deliver to us at such time as a written demand for payment is made upon us a certificate signed by you agreeing and/or confirming that monies drawn pursuant to this Letter of Credit are to be retained and used to meet obligations in connection with:

CONTRACT NO. _____
MINISTRY SUBDIVISION NO: _____
REGION FILE OR APPROVAL NO: _____
SITE LOCATION: _____
DESCRIPTION OF WORKS: _____

} *(as applicable)*

The amount of this Letter of Credit shall be reduced from time to time as advised by notice in writing given to us from time to time by you.

This Letter of Credit will expire on _____, but shall be deemed to be automatically extended without any formal amendment or notice to that effect, from year to year for successive periods of one year each from the present or any future expiration date hereof, unless not less than thirty (30) days prior to the present or any future expiration we shall notify you in writing that the bank elects not to renew this Letter of Credit for any such additional period. This notification shall be delivered by Registered Mail to the attention of:

Commissioner of Finance & Regional Treasurer
Regional Municipality of York
17250 Yonge Street, Box 147
Newmarket, Ontario, Canada
L3Y 6Z1

Upon receipt by you of such notice, you may draw by means of your demand accompanied by your above written certificate.

Partial drawings are permitted.

The drawings under this credit are to state that they are drawn under the

(Name of Bank, Address)

LETTER OF CREDIT NO. _____
(Number)

This Letter of Credit is subject to the rules set out in *International Standby Practices (ISP98)*, International Chamber of Commerce publication No.590 and engages us in accordance with the terms thereof. This Letter of Credit shall also be governed by and construed in accordance with the laws of the Province of Ontario and the applicable laws of Canada except to the extent that such laws are inconsistent with the *International Standby Practices (ISP98)*.

Authorized Signature

Authorized Signature (For Bank)