

Development Charges Deferral for Purpose-Built Rental Buildings - REVISED

Approved By: Regional Council

Approved On: November 25, 2021

Policy Statement

A policy governing the deferral of Regional development charges and area-specific development charges for purpose-built rental buildings.

Application

This policy is available for purpose-built rental buildings in York Region subject to the terms and conditions as set out in this policy. For the purposes of this deferral, the building may be registered as a condominium, but it must be entirely operated as a rental property for a period of not less than 20 years.

Purpose

The purpose of this policy is to incentivize the development of purpose-built rental buildings. Additional purpose-built rental buildings in the Region could achieve the following outcomes:

- Increased purpose-built rental supply
- More complete communities offering a range of ownership tenure

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.

Restrictive Covenant: A covenant registered on the title of the land for the proposed development requiring it be developed and entirely operated as a rental building for a period of not less than 20 years.

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.

Description

Terms of the deferral policy

1. Development Charges Deferral Agreement

Any developer wishing to defer development charges for a purpose-built rental building must 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.

2. Duration of the Deferral

- a) Development charges are deferred until 15 business days immediately following the date that is 36 months after the date that the building permit is issued by the local municipality for:
 - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for a purpose-built rental 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

- b) Development charges are deferred until 15 business days immediately following the date that is 36 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:
- i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for a purpose-built rental 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

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, at which point 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 36-month period should any of the following trigger events occur:

- Change of use from a purpose-built rental building
- Material breach of the restrictive covenant
- Any material default under the terms of the security or guarantees as stipulated in the agreement(s)
- 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.

3. Development Charges Rates

The Regional development charges rate, or area-specific development charges rate, will be the amount determined under the applicable Regional development charges bylaw, or area-specific development charges bylaw, on:

- a. Day of building permit issuance for:
 - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for a purpose-built rental 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 -

- b. Day of application for:
 - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for a purpose-built rental 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 clause (b(i) or b(ii)) does not apply to a purpose-built rental 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 are payable in accordance with section 26 of the Act.

4. Development Charges Payable

The amount of the development charges payable to the Region, as required under the Act, will be based on the rates determined under Term '3' of this policy multiplied by the number of dwelling units, which will be determined on the day that the developer enters into a development charges deferral agreement with the Region.

5. Interest Waiver

All interest will be calculated using the development charges payable in Term '4' of this policy. The period for the interest calculation will begin on the date of issuance of the building permit for the proposed structure by the local municipality and continue 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 two per cent per annum. All interest will accrue and be compounded.

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 '2' of this policy).

In the event unpaid development charges are added to the tax roll (Term '8'), interest will continue to accrue and be compounded until all outstanding charges are fully paid.

6. Restrictive Covenant

A 20-year change-of-use covenant will be registered on the title stipulating that the property will be developed and entirely operated as a rental building for a period expiring 20 years from the date that an occupancy permit is issued for the purpose-built rental building.

The burden of the restrictive covenant will run with the title of the land.

7. 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, or other incentives, for the proposed development.

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 there is a prescribed timeframe for the deferral, and what that is
- Whether interest is waived for any deferral
- Other incentives that may be provided, be them financial or otherwise

8. 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 '2' of this policy, or at the end of the development charges deferral timeframe when payment 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 plus interest).

9. Security

A form of security will be taken and registered against the title to the land 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.

10. Other Agreements Required

To take advantage of this policy, the developer must enter into a development charges deferral agreement with the Region.

In addition, the developer will enter into other agreements as required by the Regional Solicitor. Those include, but are not limited to:

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

11. Legal Fees

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

12. Mixed-Use Developments

For greater clarity, this policy does not apply to the non-residential development charges due for any mixed-use development, the residential portion of which is a purpose-built rental building.

13. Non-Applicability - Development Charges Deferral for Affordable, Purpose-Built Rental Buildings

For greater clarity, any purpose-built rental building that avails itself of the deferral under this policy is not also eligible for the Region's Development Charges Deferral for Affordable, Purpose-Built Rental Buildings.

14. Section 26.1 of the Act

For greater clarity, any purpose-built rental building to which section 26.1 applies and that opts to pay development charges in instalments in accordance with section 26.1 of the Act, will not be entitled to also avail itself of the deferral under this policy.

15. 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, York Region

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

Commissioner of Finance and Regional Treasurer, Finance

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

Regional Solicitor, Legal and Court Services

- Draft and prepare for execution deferral agreement between Region and all parties
- Draft and prepare for execution any additional agreements required including a pari passu agreement
- Registration of restrictive covenant
- Registration of security on title

Chief Planner, Planning and Economic Development, Corporate Services

- Responsibilities as identified under the Terms of this policy

Director, Treasury Office, Finance

- 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 and interest payable
- Enforce the deferral policy
- Collect all development charges when due
- Monitor timing of payment to ensure compliance with Term '5' of the policy
- Notify, through the Regional Treasurer, 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
- Undertake any additional administrative obligations as determined through the agreements
- Maintain copies of all executed deferral agreements and other agreements as required

Compliance

Immediately upon the occurrence of any of the trigger events identified in Term '2' of this policy, the **Director, Treasury Office** will notify the owner of the property on the tax 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 to ensure interest is only forgiven (Term '5' 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

- [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, Private Market Rental Development Charges Deferral Site Specific Pilot Project in the Town of Newmarket, November 21, 2013](#)
- [Council Report, 2017 Development Charge Bylaw Directions, November 17, 2016](#)
- [Council Report, 2017 Development Charge Background Study and Bylaw, May 25, 2017](#)
- [Council Report, Purpose-Built Rental Housing Incentives, October 17, 2019](#)
- [Council Report, 2022 Development Charges Bylaw: Policy Directions, November 25, 2021](#)
- [The Regional Municipality of York 2017 Development Charge Background Study – FINAL – May 18, 2017](#)

Contact

Director, Treasury Office, Finance, at extension 71644

Approval

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| Council Date: November 25, 2021 | Committee Date: November 11, 2021 |
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Accessible formats or communication supports are available upon request.