

## **Development Charges Interest Policy – Under sections 26.1, 26.2, and 26.3 of the *Development Charges Act, 1997* - REVISED**

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Approved By: Regional Council

Approved On: February 23, 2023

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### **Policy Statement**

A policy governing the charging of interest, as permitted under sections 26.1, 26.2, and 26.3 of the *Development Charges Act, 1997*.

### **Application**

This policy applies to the charging of interest, as permitted under sections 26.1, 26.2, and 26.3 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, 26.2, and 26.3 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
- Institutional development

#### b) Interest 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 maximum interest rate determined in accordance with subsection 26.3 of the Act.

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 from the date of the application referred to in clause c(i) or c(ii) to the date the development charge is payable, at a rate not exceeding the maximum interest rate determined in accordance with subsection 26.3 of the Act.

e) Maximum Interest Rate under sections 26.1 and 26.2

The rules for determining the maximum interest rate are prescribed under section 26.3 of the Act. The maximum interest rate being the average prime rate, as defined under the Act, plus 1%.

## 2. Interest Rate Charged

The interest rate that shall be charged is the maximum interest rate permitted under section 26.3 of the Act, at the time a "Development Charges Rate Certificate" is executed. This rate shall be used for the duration of the agreement, save and except instances where a subsequent application for the same development has been made or where the development qualifies under section 26.1 of the Act. If section 26.3 is repealed, an interest rate of 5% will be used.

For any developments that were issued a "Development Charges Rate Certificate" on, or after June 1, 2022, and prior to the date this revised policy comes into effect, and so long as a subsequent application is not made, an interest rate, the lower of the maximum permitted rate under section 26.3 of the Act and 5% shall be used until the development charges are fully paid. For these developments, in the event a subsequent application is made, the interest rate that shall be charged is the maximum interest rate permitted under section 26.3 of the Act.

A rate of 0% will be used for payments under section 26.1, beginning at building permit, for developments that qualify and have taken advantage of a Regional development charges incentive and/or relief, current or future. For those developments under section 26.1 that do not qualify and do not take advantage of a Regional development charges incentive and/or relief, current or future, the interest rate that shall be used for the first installment payment is the maximum interest rate permitted under section 26.3 of the Act, at the date the development charges would

have been payable (i.e., build permit issuance by the local municipality). The interest rate that shall be used for each subsequent installment payment shall be reset at the date of subsequent installment payments and capped at the maximum interest rate permitted under section 26.3 of the Act at the date the development charges were payable (i.e., building permit issuance).

### **3. Compounding/Simple Interest and Prorating:**

For any developments that executed a “Development Charges Rate Certificate”, prior to November 28, 2022, interest will be compounded annually and will accrue from the date of the applicable application until November 28, 2022. As at that date, simple interest will accrue.

For any developments that execute/executed a “Development Charges Rate Certificate”, on, or after, November 28, 2022, simple interest will accrue from the date of the applicable application until the date the total accrued amount is fully paid.

In either case, a 365-day calendar year will be used for the purposes of prorating.

*Developments that executed a “Development Charges Rate Certificate”, prior to November 28, 2022*

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

If a subsequent application(s) is made for a development prior to November 28, 2022:

- 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 until November 28, 2022, and on, or after this date, simple interest will accrue

If a subsequent application(s) is made for a development on, or after, November 28, 2022:

- 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
- Simple interest will 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, and be compounded, from the date of the issuance of a building permit until November 28, 2022. As at November 28, 2022, the total accrued amount will continue to accrue simple interest. This will continue until the date the total accrued amount has been fully paid.

*Developments that execute/executed a “Development Charges Rate Certificate”, on, or after, November 28, 2022*

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
- Simple interest will 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 simple interest from the date of the issuance of a building permit. This will continue until the date the total accrued amount has been fully paid.

#### **4. 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

## 5. 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.

## 6. Publication and Notification

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

## 7. Effective Date

This revised policy will 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

- 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 23, More Homes Built Faster Act, 2022](#)
- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 82/98](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)
- [York Region Development Charges Bylaw No. 2022-31](#)
- [Nobleton Area-Specific Development Charges Bylaw No. 2021-34](#)

## Appendices

- Council Report, 2023 Regional Fiscal Strategy, February 9, 2023
- Council Report, Bill 23, [More Homes Built Faster Act 2022](#), November 10, 2022
- 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: February 23, 2023	Committee Date: February 9, 2023
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