

CORPORATE POLICY



Policy Title: **Development Charge Interest Policy**
Policy Category: **Financial Control**
Policy No.: FC-023
Department: Corporate Services
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Attachments:
Related Legislation: *Development Charges Act, 1997, S.O. 1997, c. 27
Ontario Regulation 82/98 (as amended by O. Reg. 454/19 on
December 19, 2019); see report CORP2020-012*
Key Word(s): Development Charges, Interest

POLICY STATEMENT:

The Council for the City of Waterloo is committed to demonstrating financial leadership and sustainability. This policy is to establish a financial risk management framework governing the charging of interest, as permitted under sections 26.1 and 26.2 of the Development Charges Act that provides a transparent process while protecting the City's financial interests.

PURPOSE:

The purpose of this policy is to establish the rules and procedures for charging interest, as permitted under sections 26.1 and 26.2 of the Development Charges Act (DCA). This policy will support the City of Waterloo's ability to invest and build growth-related infrastructure for an expanding population and employment base in a way that is transparent and fiscally sustainable.

DEFINITIONS:

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 usability thereof according to one or more of the actions referred to in subsection 2(2) of the DCA, and includes redevelopment.

Development Charges Act: (DCA) The Development Charges Act, 1997, S.O. 1997, c. 27, as amended and all regulations thereto.

- Development Charge Deferral: Ability for qualifying developments to spread DC's over multiple annual instalment payments as defined in Section 26.1 of the DCA.
- Development Charge Freeze: Locking in DC rates as defined in Section 26.2 of the DCA.
- Early Payment Agreement: A municipality may enter into an agreement with a person who is required to pay a DC providing for all or any part of the charge to be paid before it would otherwise be payable (as referred to in Section 27 of the DCA).
- Prime: The prime lending rate, being the annual interest rate as indicated on the Bank of Canada website.
- Security: An agreed upon asset or assurance provided to the City in anticipation of later payment of Development Charges, to then be returned to the owner once paid in full.

SCOPE:

In December 2019, certain sections of Schedule 3 of Bill 108 More Homes, More Choice Act, 2019 (as amended by Bill 138) were proclaimed and came into force on January 1, 2020 which amended certain sections of the Development Charges Act (DCA). On December 19, 2019 Ontario Regulation 454/19 was also filed to amend the Ontario Regulation 82/98 under the DCA.

This Policy applies to development applications that are eligible for a development charge freeze and/or deferral provided in Section 26.1 and Section 26.2 of the DCA, as amended.

POLICY COMMUNICATION:

The interest rates being used shall be made available on the City's development charges website. The interest rates shall also be published as part of the City's annual development charges pamphlet publication.

POLICY:

Section 26.1 (the "payment plan"):

Section 26.1 of the DCA provides for the deferral of development charges for rental housing development that is not non-profit housing development, institutional development, and non-profit housing development, as defined in Ontario Regulation 82/98 (as amended by O. Reg. 454/19) and any future related amendments. The equal annual instalment payments for DC's on those development types will start on the earlier of the date of the issuance of a permit under the Building Code Act authorizing occupation of the building or the date the building is first occupied.

For rental housing development that is not non-profit housing development and institutional development, development charges shall be paid in six (6) annual installments. For non-profit housing development types, development charges shall be paid in 21 annual instalments.

Section 26.1(7) of the DCA provides that interest may be charged on each instalment from the building permit issuance date to the date the instalment is paid, at a rate not exceeding the prescribed maximum interest rate. The province has not prescribed a maximum interest rate at this point in time, with the amount of interest that is charged being fully at the discretion of each individual municipality.

Annual payments are based on the calculated DC divided by the number of installments due, plus any accrued interest that has accumulated from building permit issuance date to the installment payment date. The annual interest rate applied to installment balances is determined at the time of building permit issuance and locked in for the term of the deferral.

Early payment agreements will be offered if the owner of a development would prefer to pay the full DC owing at building permit issuance versus installments over several years, thus removing interest charges on the DC payable. Agreements for payment of development charges at a date earlier than would be permitted pursuant to Section 26.1, but after building permit issuance, may also be accepted with accrued interest from building permit issuance date to the date DC's are paid.

A person required to pay a development charge referred to above on a deferred basis shall, unless the occupancy of the building is authorized by a permit under the Building Code Act, notify the municipality within five (5) business days of any part of the building first being occupied. Failure to comply with that notice will result in the development charge, including any accrued interest, becoming payable immediately.

Section 26.2 (the "freeze"):

Section 26.2 of the DCA provides that the total amount of a development charge for a development that is proceeding through a site plan control approval or a zoning by-law amendment approval is to be determined under the DC by-law on the date when the complete site plan application or a zoning by-law amendment application is made. If two years has elapsed since the approval of the relevant application to when the first building permit is issued, the amount of the development charge is to be determined at the issuance of the building permit (if the development charge has been deferred pursuant to section 26.1 of the DCA) or at the time the development charge becomes payable (if the development charge has not been deferred pursuant to section 26.1 of the DCA).

If a development was subject to both site plan and re-zoning applications, it is the date of the later one that is used to determine the DC. If neither of these applications apply to the development, then the DC is determined on the building permit issuance date.

If a development charge is to be calculated at the time of a site plan application or at the time of a zoning by-law amendment application, the municipality may charge interest on the DC amount at a rate not exceeding the prescribed maximum interest rate, from the date of the complete application referred to in the applicable clause to the date the development charge is payable. The province has not prescribed a maximum interest

rate at this point in time, with the amount of interest that is charged being fully at the discretion of each individual municipality.

The annual interest rate applied to DC's pursuant to Section 26.2 of the DCA is determined when the DC is calculated, and is locked in until such time as the DC becomes payable, with interest accruing to the date the DC would normally be paid in the absence of any deferrals under Section 26.1 of the DCA (i.e. at building permit issuance); and prorated accordingly based on when the interest starts accruing.

Similar to early payment agreement options for deferrals under Section 26.1 of the DCA, the municipality may enter into an early payment agreement with a person who has locked in a DC rate pursuant to Section 26.2 of the DCA. The agreement can provide for all or any part of the DC to be paid before it would otherwise be due to mitigate interest charges.

If any development charges or interest charges, or any part thereof remains unpaid after it becomes payable (under both Sections 26.1 and 26.2 of the DCA), the amount unpaid shall be added to the tax roll of that property and collected in the same manner as property taxes.

Interest Rates to be Applied:

Pursuant to Section 26.1 of the DCA, the City of Waterloo will charge an annual interest rate of Prime + 2% for Development Charges that are deferred via payment plans for:

- a) rental housing that is not non-profit housing;
- b) institutional development.

Pursuant to Section 26.1 of the DCA, the City of Waterloo will charge 0% interest on Development Charges that are deferred via payment plans for:

- c) non-profit housing developments.

Pursuant to Section 26.2 of the DCA, the City of Waterloo will charge an annual interest rate of Prime + 2% for Development Charges that are frozen prior to Building Permit issuance, prorated accordingly based on when the interest starts accruing. Interest will start accruing from the date of the applicable complete application until the date the total DC and accrued interest is fully paid.

Other Matters:

Pursuant to Section 26.2 of the DCA, the City considers an application of a Site Plan or Zoning Amendment to be made as of the date that the submitted application is deemed to be complete according to the City's Planning staff.

At this time, the City will not require additional security for deferrals eligible under Section 26.1 of the DCA. The deferral plans will be monitored and will be addressed should non-payment become an issue, with any unpaid DC's transferred to the tax roll of the property.

The Chief Financial Officer is authorized to execute Development Charge payment agreements, Section 27 agreements for payment before or after payments would otherwise be made, and any other agreements he or she deems necessary for the proper implementation or administration of this policy, in a legal form satisfactory to the City's

Solicitor and upon business terms satisfactory to the Chief Financial Officer.

COMPLIANCE:

In cases of policy violation, the City may investigate and determine appropriate corrective action.

**Mandatory Policy, *Municipal Act*: No
Policy Administration Team, Review Date: August 27, 2020
Corporate Management Team, Review Date: August 19, 2020**