



Development Charges Deferral for Purpose-Built Rental Buildings - REVISED

Approved By:

Approved On:

Last Reviewed: October 17, 2019

Policy Statement

A policy governing the deferral of Regional development charges and area-specific development charges for purpose-built rental 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 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 ~~that are a minimum of 4 storeys and that are above grade.~~ Additional purpose-built rental buildings in the Region could achieve the following outcomes:

- Increased purpose-built rental supply

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- 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

~~**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 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

~~**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

1. Development Charges Deferral Agreement

Any developer wishing to defer development charges for a purpose-built rental building ~~(minimum of four (4) storeys)~~ 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.

~~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.~~

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.

~~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.~~

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.

~~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 purpose-built rental building by the local municipality and shall be capped based on the prescribed percentage at the Valuation Date.~~

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.

~~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 purpose-built rental building by the local municipality and shall be capped based on the prescribed percentage at the Valuation Date.~~

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.

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

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

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

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).

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

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.

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

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

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- Other agreement(s) as deemed necessary

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

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.

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

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. One (1) per cent exemption, Ontario Regulation 82/98**~~

~~For greater clarity, any purpose-built rental building that avails itself of the deferral under this policy shall not benefit from the one (1) per cent development charges exemption, for the creation of additional units within other existing residential buildings, under Ontario Regulation 82/98 (upon the date it comes into effect).~~

16.15. 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
- ~~Collect all Community Benefits Charges when due (when in effect)~~
- Monitor timing of payment to ensure compliance with Term '5' of the policy

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- 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 ~~(and Community Benefits Charges, when in effect) in order~~ 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](#)

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- [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 [**Hyperlink to be added**]
 - [The Regional Municipality of York 2017 Development Charge Background Study – FINAL – May 18, 2017](#)

Contact

Director, Treasury Office, Finance, at extension 71644

Approval

Council Date:	Committee Date:
Council Minute Item: <input type="text"/>	Committee Minute Item: <input type="text"/>

#12583306

Accessible formats or communication supports are available upon request.

Development Charges Deferral for Office Buildings - REVISED

Approved By:

Approved On:

Last Reviewed: October 17, 2019

Policy Statement

A policy governing the deferral of Regional development charges and area-specific development charges, for office buildings that are a minimum of four 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 York Region subject to the terms and conditions as set out in this policy. To be eligible, the building must be a minimum of four storeys that are above grade.

Purpose

The purpose of this policy is to establish the rules and practices for deferring development charges on office buildings that are a minimum of four storeys and that are above grade.

This policy will also support York Region's goal of building complete communities and will help achieve the following outcomes:

- Encourage 'place-making' through a mix of uses
- Promote live/work
- 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 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

~~**Gross Floor Area:** As defined under 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~~

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: As defined under 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

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

~~(c)~~(a) that is situated between the top of any floor and the top of the floor next above it, or

~~(d)~~(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

1. Development Charges Deferral Agreement

Upon site plan approval and prior to building permit issuance, any developer(s) wishing to defer development charges for office buildings that are a minimum of four storeys that are above grade must enter into a development charge deferral agreement with the Region and provide the Region with a letter of credit for the development charges owed.

~~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.~~

2. Duration of Deferral

The duration of the development charges deferral will vary, dependent on when an application for a site plan or zoning bylaw amendment was submitted:

- a. 18 months from date of building permit issuance 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 an office building prior to January 1, 2020, or

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- ii. Applications submitted for an amendment to a by-law passed under section 34 of the Planning Act prior to January 1, 2020
 - b. 18 months from 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 an office building including and after January 1, 2020, or
 - ii. 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(s) must notify the Region within five business days of the building first being occupied, whereupon the deferral period will begin.

~~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.~~

3. Development Charges Rates

The 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 an office building prior to January 1, 2020, or
 - ii. Applications submitted for an amendment to a by-law 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 an office building including and after January 1, 2020, or

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- ii. Applications submitted for an amendment to a by-law 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 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.

~~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.~~

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 gross floor area of the office building, of which will be determined on the day that the developer(s) enters into a development charges deferral agreement with the Region and provides a letter of credit.

Actual monetary value of the development charges will be received via draw upon the letter of credit.

5. Security - 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 will 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, 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.~~

6. Interest Waiver

No interest will be charged as the Region is in receipt of a letter of credit.

7. Mixed-Use Buildings

In the case of a mixed-use building, this policy will apply as follows:

a. Each component of the structure will be deferred in accordance with the applicable policy:

i. If the applicable policy requires a letter of credit, a separate letter of credit will be required, and

ii. A separate development charges deferral agreement will be required, or

b. The entirety of the building may be deferred based on the predominant residential use and in accordance with the applicable residential policy.

8. 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

- Signing of agreements

Commissioner of Finance and Regional Treasurer, Finance

- Signing of agreements

Director, Treasury Office, Finance

- Administer and enforce 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
- Collect all development charges when due

Director, Strategy and Transformation, Finance

- 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** will 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

- [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, 2022 Development Charges Bylaw: Policy Directions, November 25, 2021 **[Hyperlink to be added]**
- [Council Report, Letter of Credit Policy, April 18, 2013](#)

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

Contact

- Director, Treasury Office, Finance at extension 71644

Approval

Council Date:	Committee Date:
Council Minute Item: <input type="text"/>	Committee Minute Item: <input type="text"/>

#10709601

Accessible formats or communication supports are available upon request.

ATTACHMENT A

REGION 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
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 will 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 will 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 will 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 will notify you in writing that the bank elects not to renew this Letter of Credit for any such additional period. This notification will be delivered by Registered Mail to the attention of:

Commissioner of Finance & Regional Treasurer
Regional Municipality of York
17250 Yonge Street
4/F, Finance Reception
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 will 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)

Development Charges Deferral for Open Air Motor Vehicle Storage Structures - REVISED

Approved By:

Approved On:

Last Reviewed: May 17, 2018

Policy Statement

A policy governing the deferral of Regional development charges and area-specific development charges for open air motor vehicle storage structures in York Region.

Application

This policy is available for open air motor vehicle storage structures in York Region, subject to the terms and conditions as set out in this policy and/or modified through the required deferral agreement.

For greater clarity, to be eligible, this structure must be open air and applies to:

- conversions of existing surface parking to open air motor vehicle storage structures
- new open air motor vehicle storage structures

The policy does not apply to solely below grade motor vehicle storage structures. If an above-grade open air motor vehicle storage structure includes below grade storage areas, those below grade storage area will not be eligible for this deferral.

Purpose

The purpose of this policy is to establish the rules and practices for deferring development charges on open air motor vehicle storage structures.

This policy will also support the following outcomes:

- Support more compact development, thereby making better use of land
- Support the development and attraction of open air motor vehicle storage structures

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

Enclosure/enclosed: Includes the partial and/or complete enclosure of the part of the structure open to natural light and air

Gross Floor Area: As defined under 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

Motor vehicle storage: Includes, but is not limited to, the display, storage or warehousing of motor vehicles prior to sale, lease, rental, servicing and includes employee and/or customer parking

Open air motor vehicle storage structure: Includes a building, structure, platform, station, or part of any of the foregoing, standalone or attached to another structure that is open to natural light and air and is used for motor vehicle storage.

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

1. Development Charges Deferral Agreement

Upon site plan approval and prior to building permit issuance, any developer(s) wishing to defer development charges for an open air motor vehicle storage structure must enter into a development charge deferral agreement with the Region.

2. Covenants Included in the Development Charges Deferral Agreement

Every development charge deferral agreement will include covenants, on the part of the developer(s), of which will include, but not be limited to:

- covenant, by the developer(s), that the structure will only be an open air motor vehicle storage structure as defined in this policy
- covenant, by the developer(s), to permit Regional staff to visit and/or inspect the structure from time-to-time, in an agreed upon manner, to ensure the structure has not been enclosed and is being used for the intended purposes (i.e., motor vehicle storage)
- covenant, by the developer(s) that they will inform the Region if the facility is to be enclosed
- covenant, by the developer(s), that if the structure becomes enclosed, is subject to enclosure, or another trigger event occurs, as defined by this policy or accompanying agreement(s), development charges will be made payable (including any interest)
- covenant, by the developer(s), that they will enter into any additional agreement(s), as determined to be required by the Regional Solicitor, to give full force and effect to the deferral agreement

3. Duration of the Deferral

The deferral of development charges for open air motor vehicle storage structures will be until the structure becomes enclosed, as defined in this policy and/or modified through the development charge deferral agreement.

The deferral period will begin on the day of building permit issuance by the local municipality for the open air motor vehicle storage structure.

Development charges will be payable within 15 business days immediately following notification of any of these trigger events:

- enclosure of the structure (as defined in this policy)
- 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.

4. Development Charges Rates

The 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 an open air motor vehicle storage structure 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 an open air motor vehicle storage structure 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 an open air motor vehicle storage structure 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.

5. 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 '4' of this policy multiplied by the gross floor area of the open air motor vehicle storage structure, of which will be determined on the day that the developer(s) enters into a development charges deferral agreement with the Region.

6. Interest Waiver

All interest will be calculated using the development charges payable in Term '5' to 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 annually.

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 '3' of this policy).

In the event unpaid development charges are added to the tax roll (Term '7'), interest will continue to accrue and be compounded until all outstanding charges are fully paid.

7. 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 '3' of this policy, 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 annually until all outstanding total charges are fully paid (development charges plus interest).

8. Redevelopment Credits

In the situation of a redevelopment of a structure covered by a deferral agreement under this policy, no development charge credits will be available and the new structure will be subject to the full development charges on that structure.

9. 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 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
- Whether interest is waived
- Other incentives that may be provided, be them financial or otherwise

10. Security

A form of security will be taken and may be 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.

10.11. Other Agreements Required

In addition to the requirement that the developer(s) enter into a development charge deferral agreement with the Region, the developer(s) will enter into any other agreements as required by the Regional Solicitor.

11.12. Legal Fees

All legal fees of the developer(s) and the Region will be borne by the developer(s).

13. Mixed-Use Buildings and Multiple-Use Buildings

This policy does apply to open air motor vehicle storage structure uses in a mixed-use building or a multiple-use building.

However, for greater clarity, this policy does not apply to the non-open air motor vehicle storage structure uses within a mixed-use building or a multiple-use building.

12.14. Report Back to Council

Staff will report back to Council on the number of deferral agreements, and the amounts deferred, executed through this policy, as part of the process to update of the Region's development charge bylaw.

13.15. 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 the deferral agreement between Region and the developer(s)
- Draft and prepare for execution any additional agreements required
- Maintain copies of all executed deferral agreements and other agreements as required
- Registration of security on title

Director, Treasury Office, Finance

- Administer and enforce 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

Director, Strategy and Transformation, Finance

- Collect all development charges when due
- Notify, through the Regional Treasurer, 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
- 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 '3' 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 '6' 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](#)

Appendices

- [The Regional Municipality of York - York Region Development Charges Bylaw - No. 2017-35](#)
- [Memorandum to Committee of the Whole, Development charge treatment of structured parking, April 12, 2018](#)
- [Council Report, 2018 Development Charge Background Study and Bylaw Amendment, May 17, 2018](#)
- [The Regional Municipality of York 2018 Development Charge Background Study – Bylaw Amendment, May 17, 2018](#)
- Council Report, 2022 Development Charges Bylaw: Policy Directions, November 25, 2021 **[Hyperlink to be added]**

Contact

- Director, Treasury Office, Finance, at extension 71644

Approval

Council Date:	Committee Date:
Council Minute Item: <input type="text"/>	Committee Minute Item: <input type="text"/>

#10716451

Accessible formats or communication supports are available upon request.

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

Approved By:

Approved On:

Last Reviewed: February 27, 2020

Policy Statement

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

Application

This policy applies to the charging of interest, as permitted under sections 26.1 and 26.2 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 and 26.2 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 that is not non-profit housing development
- Institutional development
- Non-profit housing development

b) Interest on Installment Payments 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 prescribed maximum interest rate.

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

e) Maximum Interest Rate under sections 26.1 and 26.2

The Act allows a municipality to charge interest on the development charge at a rate not exceeding the prescribed maximum interest rate.

There is no prescribed maximum interest rate under subsections 26.1 and 26.2 of the Act.

2. Interest Rate Used

- a) An interest rate of 5% will be used.
- b) Notwithstanding clause 2(a), a rate of 0% will be used for payments under section 26.1, beginning at building permit, for developments that have taken advantage of a Regional development charges incentive and/or relief, current or future.

3. Amendment or Revision to Interest Rates:

In the event the interest rate is amended or revised, the new interest rate will apply to the total accrued amount, prorated from the date of the interest rate amendment or revision to:

- The date the total accrued amount is fully paid, or
- A subsequent amendment or revision of the interest rate

4. Interest Rate Publication and Notification

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

The interest rates will also be published as part of the Region's development charges pamphlet publication.

5. Compounding and Prorating:

All interest will be compounded annually and will accrue from the date of the applicable application until the date the total accrued amount is fully paid. A 365-day calendar year will be used for the purposes of prorating.

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
- Interest will be compounded annually and 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 from the date of the issuance of a building permit.

During the instalment timeframe, interest will continue to accrue on the outstanding balance. This will continue until the date the total accrued amount has been fully paid.

6. 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

7. 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.

7.8. Effective Date

Upon approval by Council, this policy will take effect as at January 1, 2020 at 12 a.m. This policy may be repealed and/or modified by Council 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 108, More Homes, More Choice Act, 2019](#)
- [Bill 138, Plan to Build Ontario Together Act, 2019](#)
- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 454/19](#)
- [Ontario Regulation 82/98](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)
- [York Region Development Charges Bylaw No. 2017-35](#)
- [York Region Development Charges Bylaw Amendment No. 2018-42](#)

Appendices

- 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 [**Hyperlink to be added**]

Contact

Director, Treasury Office, Finance, at extension 71644

Director, Community Planning, Corporate Services, at extension 71505

Approval

Council Date:	Committee Date:
Council Minute Item:	Committee Minute Item:

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