

Development Charges Deferral for Office Buildings a Minimum of 100,000 square feet and on the Regional Centres and Corridors – Pilot Program

Approved By: Council

Approved On:

Last Reviewed: Not applicable

Policy Statement

A policy governing the deferral of Regional development charges and area-specific development charges, as the case may be, for office buildings a minimum of four (4) storeys, above grade, a minimum of 100,000 square feet of gross floor area and located on the Regional Centres and Corridors.

Upon the date a community benefits charges bylaw is adopted and comes into effect, this policy shall include the deferral of the Regional community benefits charges applicable to office buildings a minimum of four (4) storeys, above grade, a minimum of 100,000 square feet and located on the Regional Centres and Corridors.

Application

This policy is available for office buildings that are a minimum of four (4) storeys, above grade, a minimum of 100,000 square feet of gross floor area and located on the Regional Centres and Corridors, subject to the terms and conditions as set out in this policy.

Purpose

The purpose of this policy is to incentivize the development of office buildings that are a minimum of four (4) storeys, above grade, a minimum of 100,000 square feet and are located on the Regional Centres and Corridors. Additional larger office buildings on the Regional Centres and Corridors could achieve the following outcomes:

- Encourage 'place-making' through a mix of uses
- Promote live/work within the Region
- Make better use of significant infrastructure investments made by the Region and local municipalities, including transit
- Help to grow the Region's property assessment base both from the new office development and from the surrounding complementary development due to land use synergy (both residential and non-residential)
- Help to alleviate north-south congestion on the roads network as residents have increased opportunities to work within the Region

Definitions

Act: The *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended, revised, re-enacted or consolidated from time to time, and any successor statute

Community Benefits Charges: The Region's Community Benefits Charges, established by a Community Benefits Charges Bylaw, under section 37 of the *Planning Act*, R.S.O 1990, c. P. 13, as amended, revised, re-enacted or consolidated from time to time, and any successor statute

Development: The construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or changing the use thereof from non-residential to residential or from residential to non-residential and includes redevelopment

Development Charges: The Region's development charges, including the area-specific wastewater development charges for the Village of Nobleton

Gross Floor Area: As under the Region's Development Charges Bylaw No. 2017-35 as amended by Regional Development Charges Bylaw No. 2018-42 or any successor

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development charges bylaw. Gross floor area means, in the case of a non-residential building or structure or the non-residential portion of a mixed-use building or structure, the aggregate of the areas of each floor, whether above or below grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating a non-residential and a residential use, excluding, in the case of a building or structure containing an atrium, the sum of the areas of the atrium at the level of each floor surrounding the atrium above the floor level of the atrium, and excluding the sum of the areas of each floor used, or designed or intended for use for the parking of motor vehicles unless the building or structure, or any part thereof, is a retail motor vehicle establishment or a standalone motor vehicle storage facility or a commercial public parking structure, and, for the purposes of this definition, notwithstanding any other section of the Region's bylaw, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure, and gross floor area shall not include the surface area of swimming pools or the playing surfaces of indoor sport fields including hockey arenas, and basketball courts

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

Regional Centres and Corridors: The Regional Centres are depicted on Map 1 – Regional Structure, York Region Official Plan -

- Markham Centre (Highway 7 and Warden Avenue)
- Newmarket Centre (Yonge Street and Davis Drive)
- Richmond Hill/Langstaff Gateway (Highway 7 and Yonge Street)
- Vaughan Metropolitan Centre (Highway 7 and Jane Street)

For further information on areas identified as Regional Corridors please contact the Director of Community Planning at extension 71505

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

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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

A. Applications previously submitted

Any developer wishing to defer Development Charges for an office building that is a minimum of four (4) storeys, above grade, a minimum of 100,000 square feet of gross floor area and on a Regional Centre and Corridor, who had submitted a site plan application or zoning bylaw amendment application, for the construction of the office building prior to Council approval of this policy may enter into a Development Charges Deferral agreement with the Region, subject to the terms and conditions of this policy, and provided that the Development Charges Deferral agreement and the issuance of the building permit for the office building by the local municipality are prior to the date that is three (3) years immediately after Council approval of this policy.

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

B. Expression of Interest Agreement – applications not previously submitted

Any developer wishing to defer Development Charges for an office building that is a minimum of four (4) storeys, above grade, a minimum of 100,000 square feet of gross floor area and on a Regional Centre and Corridor who had not submitted a site plan application or zoning bylaw amendment application, for the construction of the office building, prior to Council approval of this policy, may enter into a Development

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Charges Deferral agreement with the Region provided that they first enter into an Expression of Interest agreement with the Region.

The ability to enter into an Expression of Interest agreement shall begin on the date that Council approves this policy and shall end three (3) years after the approval of this policy at 4:30 p.m. The developer shall only qualify to enter into an Expression of Interest agreement if they have submitted a complete site plan application or zoning bylaw amendment application as determined by the local municipality, for the construction of the office building, or an amendment to an existing application that results in additional gross floor area which are a minimum of 100,000 square feet threshold, during the duration of this three (3) year period.

For greater clarity, any site plan application, or zoning bylaw amendment application, for an office building that is a minimum of four (4) storeys, a minimum of 100,000 square feet of gross floor area and on a Regional Centre and Corridor that was submitted prior to Council approval of this policy does not qualify for an Expression of Interest agreement unless a subsequent application/amendment, adding additional gross floor area to the original application is submitted during this three (3) year period.

This Expression of Interest agreement, between the developer and the Region, will secure an option for the developer to enter into a Development Charges Deferral agreement with the Region provided that:

- The square footage cap under Term 'I' of this policy has not already been met
- The developer agrees to all of the Terms outlined in this policy

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

C. Development Charges Deferral agreement

Any developer wishing to defer Development Charges for an office building that is a minimum of four (4) storeys, a minimum of 100,000 square feet and on a Regional Centre and Corridor, including those who already entered into an Expression of Interest agreement with the Region must also enter into a Development Charges Deferral agreement with the Region, provided that the gross floor area cap of 1.5 million square feet (Term 'I') for pilot policy has not been met.

For greater clarity, any developer who had entered into an Expression of Interest agreement must enter into a Development Charges Deferral agreement within five (5) years of the submission of a complete site plan application or zoning bylaw

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amendment application or an amendment to an existing application that results in additional gross floor area provided that the pilot policy's gross floor area cap of 1.5 million square feet (Term 'I') has not been met.

A Development Charges Deferral agreement shall 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 'C' shall apply to Community Benefits Charges when a Community Benefits Charges bylaw has been adopted and is effect.

D. Duration of the Deferral

The duration of the Development Charges deferral shall vary based on the eligible gross floor area of the building, and will be in accordance with Table 1 below.

Table1

Gross Floor Area Size Threshold	Duration of Development Charges deferral available in Regional Centres and Corridors
Between 100,000 square feet and 250,000 square feet	5 year*
Greater than 250,000 square feet and less than or equal to 400,000 square feet	10 year*
Greater than 400,000 square feet	20 year*

*Note: Once threshold is crossed, entirety of gross floor area in office building is deferred for this timeframe

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

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Development Charges are therefore deferred until fifteen (15) days immediately following the date that is (5) years, ten (10) years or twenty (20) years (as applicable) after the date that the building permit is issued by the local municipality.

- ii.) Where an application for approval of a development in a site plan control area under subsection 41 (4) of the *Planning Act* for an office building after section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019*, is proclaimed, or for an office building for which an application for an approval of a development in a site plan control area under subsection 41 (4) of the *Planning Act* does not apply, but has submitted an application for an amendment to a bylaw passed under section 34 of the *Planning Act*, after section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019*, is proclaimed; the deferral period shall begin on the earlier of the date of the issuance of a permit under the *Building Code Act, 1992*, authorizing occupation of the building, or the date the building is first occupied.

If the occupation of the building is not authorized by a permit under the *Building Code Act, 1992*, the developer must notify the Region within five (5) business days of the building first being occupied, whereupon the deferral period will begin. Failure to notify the Region within five (5) business days of the building first being occupied will constitute a material default of the deferral agreement.

Development Charges are deferred until fifteen (15) days immediately following the date that is five (5) years, ten (10) years or twenty (20) years (as applicable) after the earlier of the date of the issuance of a permit under the *Building Code Act, 1992*, authorizing occupation of the building or the date the building is first occupied.

For greater clarity, all of the foregoing in clause (ii) shall apply to Community Benefits Charges when a community benefits bylaw has been adopted and is in effect.

Development Charges shall be payable prior to the timeframe indicated in Table 1 should any of the following trigger events occur:

- Change of use from an office building
- 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)

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Notification to the owner of the property on the tax roll shall occur immediately after the trigger event. The fifteen (15) business days shall begin with the mailing, by registered mail, of notice.

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

E. Development Charges rates

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

- i.) The day that the building permit is issued for the construction of the office building by the local municipality if an application for an approval of development in a site plan control area under subsection 41 (4) of the *Planning Act* or an application for an amendment to a by-law passed under section 34 of the *Planning Act* was submitted prior to section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* being proclaimed
- ii.) The day an application for an approval of development in a site plan control area under subsection 41 (4) of the *Planning Act* was made in respect of the development that is the subject of the Development Charges or if an application for an approval of development in a site plan control area under subsection 41 (4) of the *Planning Act* does not apply, the day an application for an amendment to a by-law passed under section 34 of the *Planning Act* was made in respect of the development that is the subject of the Development Charges if either application was submitted after section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* being proclaimed
- iii.) If clause (ii) does not apply to an office building that is seeking to defer Development Charges after section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* has been proclaimed, the Development Charges rate is determined on the day the Development Charges is payable in accordance with section 26 of the Act

For greater clarity, when a community benefits 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.

F. Development Charges payable

The amount of Development Charges payable to the Region, as required under the Act, shall be based on the rates determined under Term 'E' of this policy multiplied by the gross floor area of the office building, of which shall be determined on the day that the developer enters into a Development Charges Deferral agreement with the Region.

For greater clarity, qualifying gross floor area shall only be on a per building basis. Gross floor area is as defined in this policy.

For greater clarity, when a community benefits 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.

G. Interest waiver

All interest shall be calculated using the Development Charges payable in Term 'F' to this policy until the date upon which the Development Charges are fully paid.

All deferred Development Charges shall 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 (2) per cent per annum. All interest shall accrue and be compounded.

The time period shall be calculated beginning on the date of issuance of the building permit for the proposed structure by the local municipality.

The Region shall 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 fifteen (15) business days immediately following notification of a trigger event as defined in Term 'D' of this policy).

In the event unpaid Development Charges are added to the tax roll (Term 'K'); interest shall continue to accrue and be compounded until all outstanding charges are fully paid.

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

H. Duration of Development Charges Deferral for Office Buildings a Minimum of 100,000 square feet and on the Regional Centres and Corridors – Pilot Policy

This policy shall take effect on the day upon which it is approved by Council.

This policy shall expire eight (8) years after the date of Council approval, at 4:30 p.m. An eight (8) year period takes into consideration two factors:

- A developer may enter into an Expression of Interest agreement any time during the three (3) period, commencing immediately after Council approval and ending three (3) years later at 4:30 p.m.; and
- Under Term ‘C’ of this policy, any Development Charges Deferral agreement must be entered into within five (5) years of the submission of a complete site plan application or a zoning bylaw amendment application.

I. Square footage cap

This policy will only be available to the first 1.5 million square feet of gross floor area that enters into a Development Charges Deferral agreement(s) with the Region. It will be available on a ‘first-come, first served’ basis.

In the event more than one office building wishes to enter into a Development Charges Deferral agreement with the Region on the same day, the result of which would exceed the square footage cap, it shall be up to the Commissioner of Finance and the Chief Administrative Officer to determine qualification and whether the square footage cap may be exceeded.

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.

J. 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 building.

It shall 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 or not there is a prescribed timeframe for the deferral

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- Whether or not interest is waived
- Other incentives that may be provided, be they financial or otherwise

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 effect.

K. Unpaid Development Charges

If any Development Charges (including any interest) are unpaid within fifteen (15) business days immediately following notification of a trigger event identified in Term 'D' of this policy, or at the end of the development charge deferral timeframe when payment has not been made, those Development Charges (including interest) shall 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 shall continue to accrue and be compounded until all outstanding charges are fully paid.

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

L. Security

A form of security will be taken and registered against the title to the property, 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 'L' shall apply to Community Benefits Charges when a Community Benefits Charges bylaw has been adopted and is in effect.

M. Other agreements required

In addition to the requirements that the developer enter into an Expression of Interest agreement and a Development Charges Deferral agreement with the Region, the developer shall enter into any other agreements as required by the Regional Solicitor. Additional agreements include, but may not be limited to:

- Charge

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

For greater clarity, all of the foregoing in Term 'M' shall apply to Community Benefits Charges when upon they are in effect through a Community Benefits Charges Bylaw.

N. Legal fees

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

O. Report back to Council

Staff shall report back to Council prior to the end of this Council term, on the results of the pilot policy and provide a recommendation on whether additional steps should be taken to further facilitate office development in Regional Centres and Corridors.

P. Non-Applicability – 18 month Development Charges Deferral

For greater clarity, any office building that avails itself of the deferral under this policy is not eligible for the Region's 18 month Development Charges deferral for office buildings greater than four (4) storeys.

Q. Multiple use buildings

This policy does apply to office uses in a multiple use building.

However, for greater clarity, this policy does not apply to the non-office uses within any multiple use building, a part of which is an office use or building that is a minimum of 100,000 square feet.

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

R. Mixed-use developments

For greater clarity, this policy does not apply to the residential or any other non-residential Development Charges due for any mixed-use development, a portion of which is an office building or use that is a minimum of 100,000 square feet.

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

S. Section 26.1 of the Act

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

T. Effective date

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

Responsibilities

Chief Administrative Officer, Regional Municipality of York

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

Commissioner of Finance and Regional Treasurer, Finance Department

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

Regional Solicitor, Legal Services

- Draft and prepare for execution the deferral agreement between Region and the developer

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- Draft and prepare for execution the expression of interest agreement between the Region and the developer
- Draft and prepare for execution any additional agreements required
- Registration of security on title

Chief Planner, Planning and Economic Development, Corporate Services Department

- Responsibilities as identified under the Terms of this policy

Director, Treasury Office, Finance Department

- Administer the deferral policy, including assisting stakeholders in determining if they qualify for the policy, the Development Charges rates to be applied, the amount of qualifying gross floor area and the Development Charges payable
- Enforce the deferral policy
- Collect all Development Charges when due
- Collect all Community Benefits Charges when due (when in-effect)
- Monitor timing of payment in order to ensure compliance with Term 'E' of the policy
- 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 of that municipality
- Undertake any additional administrative obligations as determined through the agreements
- Maintain copies of all executed deferral agreements and other agreements as required

Director, Community Planning, Planning and Economic Development

- Assist in identifying structures as within the Regional Centres and Corridors

Compliance

Immediately upon the occurrence of any of the trigger events identified in Term 'D' of this policy, the **Director, Treasury Office** shall notify the owner of the property on the tax roll that Development Charges are due within fifteen (15) business days, the timing of which shall begin with the mailing, by registered mail, of notice.

The **Director, Treasury Office** shall 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 'G' of the policy) when the Development Charges are paid in full to the Region within fifteen (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](#)
- [The Regional Municipality of York - York Region Development Charges Bylaw - No. 2017-35](#)
- [The Regional Municipality of York – York Region Development Charge Bylaw Amendment N. 2018-42](#)
- [York Region Official Plan, Map 1 - Regional Structure](#)

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](#) (hyperlink to be inserted)

Keyword Search

- development charges, Development Charges Act

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- deferral office buildings
- community benefits charges, Planning Act
- Centres and Corridors

Contact

- Director, Treasury Office, Finance Department at extension 71644

Approval

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

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Accessible formats or communication supports are available upon request.