

## CITY OF VAUGHAN

### **EXTRACT FROM COUNCIL MEETING MINUTES OF MAY 16, 2023**

Item 2, Report No. 23, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on May 16, 2023.

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#### **2. DEVELOPMENT CHARGE INTEREST RATE POLICY – UNDER SECTIONS 26.1, 26.2 AND 26.3 OF THE DEVELOPMENT CHARGES ACT, 1997**

**The Committee of the Whole recommends approval of the recommendations contained in the following report of the Deputy City Manager, Corporate Services, City Treasurer and Chief Financial Officer, dated May 9, 2023:**

#### **Recommendations**

1. THAT Council approve the charging of interest as per section 26.3 for development that is eligible under sections 26.1 and 26.2 of the *Development Charges Act, 1997*
  - a. Effective as of June 1, 2022
  - b. At a rate of average prime + 1%
2. THAT Council approve the Development Charges Interest Policy (Attachment 1), to administer the charging of interest as outlined in Recommendation 1.

## Committee of the Whole (2) Report

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**DATE:** Tuesday, May 9, 2023

**WARD(S):** ALL

**TITLE:** DEVELOPMENT CHARGE INTEREST RATE POLICY – UNDER SECTIONS 26.1, 26.2 AND 26.3 OF THE DEVELOPMENT CHARGES ACT, 1997

**FROM:**

Michael Coroneos, Deputy City Manager, Corporate Services, City Treasurer and Chief Financial Officer

**ACTION:** DECISION

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**Purpose**

To revise the existing Development Charges Interest Policy in response to changes to the *Development Charges Act, 1997*, introduced through *Bill 23, More Homes Built Faster Act, 2022*.

**Report Highlights**

- Bill 23, More Homes Built Faster Act, 2022 amended the Development Charges Act, 1997 to prescribe a maximum interest rate for developments that are eligible under 26.1 and 26.2 of the Development Charges Act.
- The maximum prescribed interest rate is average prime +1%.
- Staff have updated the DC interest policy to align with the legislative changes.

**Recommendations**

1. THAT Council approve the charging of interest as per section 26.3 for development that is eligible under sections 26.1 and 26.2 of the *Development Charges Act, 1997*
  - a. Effective as of June 1, 2022
  - b. At a rate of average prime + 1%

2. THAT Council approve the Development Charges Interest Policy (Attachment 1), to administer the charging of interest as outlined in Recommendation 1.

## **Background**

Bill 108, the *More Homes, More Choice Act* received Royal Assent on June 6, 2019. This Bill amends 13 different statutes that impact municipalities and land use planning processes. Bill 138, the *Plan to Build Ontario Together Act*, received Royal Assent on December 10, 2019. Bill 138 amended some of the changes to the *Development Charges Act, 1997* (“Act”) and the *Planning Act, 1990* that were made by Bill 108. Some of the changes to the Act were proclaimed to come into effect as of January 1, 2020 and impact the way municipalities are to calculate and collect development charges.

### **Developments subject to the provision of either a site plan or zoning by-law amendment application submitted after January 1, 2020 can get the benefit of “frozen” development charge rates and some developments can now defer the payment of the development charges and pay for same in installments**

One of the changes included in Bill 108 was the requirement for municipalities to freeze development charge (“DC”) rates at site plan application or zoning application and to allow certain types of development including rental housing and institutional development to defer their DC payments and allow for payments of same in installments. The requirement to freeze DC rates and to begin phasing payments went into effect on January 1, 2020. Prior to this, DCs were typically calculated and payable at the rates in effect at the time of building permit issuance (i.e., for large buildings DCs are payable at issuance of conditional footing/foundation permit).

As a part of these changes to the Act, a provision was also included to allow a municipality to charge interest over the period from when the DC rates are frozen to when they are paid and, in the case of deferred payment, charge interest from when the DCs would have been payable to the date the installment is paid. Initially the Province did not prescribe a maximum interest rate, or a regulatory framework for these purposes. In May 2020, Staff brought forward a policy for Council approval that allowed for interest to be charged at a rate of 5% compounded annually in alignment with the Region of York.

## **Previous Reports/Authority**

[Development Charges Interest Policy – Under 26.1 and 26.2 of the Development Charges Act, 1997](#)

## **Analysis and Options**

### **Bill 23 now prescribes a maximum interest rate and framework for the charging of interest**

Bill 23, More Homes Built Faster Act, 2022 received Royal Assent on November 28, 2022 and included further amendments to the *Development Charges Act*, 1997 which now prescribes a maximum interest rate of average prime rate + 1% under section 26.3 of the Act. The interest rate will be determined based on the adjustment dates under section 26.3 of the Act as follows:

A base rate of interest shall be determined for April 1, 2022 and for each adjustment date after April 1, 2022 and shall be equal to the average prime rate on,

- i. October 15 of the previous year, if the adjustment date is January 1,
- ii. January 15 of the same year, if the adjustment date is April 1,
- iii. April 15 of the same year, if the adjustment date is July 1, and
- iv. July 15 of the same year, if the adjustment date is October 1.

In response to the amendments included in Bill 23 staff have updated the City's Development Charges Interest Policy to ensure alignment with the legislation.

### **Application of interest for Section 26.1 and 26.2**

When an application is received and considered to be deemed complete, development charge rates are frozen to the presiding rates at that time as per section 26.2 of the Development Charges Act. When a building permit is issued, and DCs become payable, interest will be calculated and compounded annually for the DCs that have become payable.

Developments that are eligible to have their DCs frozen under section 26.2 of the Act will also have their interest rate frozen at the same time that based on the adjustment

dates in section 26.3 of the Act and outlined above. The freezing of the interest rate provides the cost certainty principle that is achieved by freezing the DC rate.

Developments that are eligible to pay their DCs in installments under section 26.1 of the Act will be charged interest at the maximum permissible rate under section 26.3 of the Act on the day the development charges would have been payable (i.e. building permit). For subsequent payments the maximum interest rate permissible under section 26.3 of the Act will be charged based on the date that the installment payment comes due.

If an applicant is eligible under section 26.1 of the Act to defer DCs and make payments in installments the first payment becomes due at the time that the building receives occupancy. Interest is calculated and compounded annually on the installment payment back to the date the application was deemed complete and the DC rates were frozen. Each subsequent installment is payable at the annual anniversary of building occupancy and interest is calculated and compounded annually for each subsequent installment.

### **Financial Impact**

DCs are the City's primary source of funding for growth-related capital infrastructure. The freezing of rates and the deferral of payments under 26.1 and 26.2 of the Act has the effect of disconnecting the cost of infrastructure from the rates being paid. Developers may lock into a rate for a previous background study which may not include future infrastructure costs.

Including an interest component when administering the frozen and deferred payments will allow the City to mitigate some of the cost being passed on unfairly to future development due to the delay in DC payment. It will also encourage development to proceed in a timely fashion because interest will continue to accrue until a developer acquires a building permit.

Revising the policy to align with legislation, allows the City to maximize the interest earning potential when the prime rate is high, however when the rate begins to lower, the interest revenue will also decrease. As this is now a prescribed maximum, all municipalities will be consistent on the rate being used.

### **Operational Impact**

There are no operating impacts associated with this report.

### **Broader Regional Impacts/Considerations**

The Region of York presented a revised policy that addressed the interest related to

section 26.1 and section 26.2 of the Act to their Council in March 2023. As the City acts as an agent for the Region of York with regards to DC collections, the City will also be required to administer the Region's Development Charges Interest Policy. The City has followed a similar approach to the interest policy of the Region and accordingly, the internal administration and approach to the collection of interest will be relatively consistent across both levels of government.

### **Conclusion**

Charging interest on frozen and deferred DCs could help to mitigate the impact of Bill 108 by improving cost recovery and encouraging developers to proceed with development in a timely manner. Revising the policy to charge the prescribed maximum interest further aligns the City with others and creates consistency and cost certainty for developers.

**For more information**, please contact: Nelson Pereira, Manager of Development Finance, ext. 8393

### **Attachment**

1. Development Charges Interest Policy – Under Sections 26.1, 26.2 and 26.3 of the Development Charges Act, 1997

### **Prepared by**

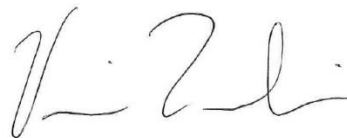
Brianne Clace, Project Manager of Development Finance, ext. 8284

### **Approved by**



Michael Coroneos, Services, CFO and City Treasurer

### **Reviewed by**



Vince Musacchio  
on behalf of Nick Spensieri,  
City Manager



# CITY OF VAUGHAN

## CORPORATE POLICY

**POLICY TITLE:** DEVELOPMENT CHARGE INTEREST POLICY – UNDER SECTIONS 26.1, 26.2 AND 26.3 OF THE DEVELOPMENT CHARGES ACT, 1997

**POLICY NO.:** XX.X.XX

<b>Section:</b>	Finance & Budgets		
<b>Effective Date:</b>	May 9, 2023	<b>Date of Last Review:</b>	September 27, 2021
<b>Approval Authority:</b> Council	<b>Policy Owner:</b> DCM, Corporate Services & CFO		

### POLICY STATEMENT

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

### PURPOSE

To establish the rules and practices for charging interest, as permitted under sections 26.1, 26.2, and 26.3 of the *Development Charges Act, 1997*.

This policy will support the City of Vaughan's ability to build growth-related infrastructure in a way that is fiscally sustainable and will help to achieve the following objectives:

- Reliable delivery of growth-related City programs and services.
- Continued delivery of complete communities in a financially sustainable way.
- Fair and equitable treatment of all stakeholders involved in delivering housing supply, including residents, businesses and developers.

### SCOPE

This policy applies to the charging of interest, as permitted under sections 26.1, 26.2, and 26.3 of the *Development Charges Act, 1997*. This includes all types of development and redevelopment in the City of Vaughan:

- That are eligible for installment payments under 26.1 of the *Development Charges Act, 1997*

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- 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 By-law passed under Section 34 of the *Planning Act, 1990*

#### **LEGISLATIVE REQUIREMENTS**

Municipalities are permitted to charge interest pursuant to section 26.1(7) of the Act which states: “A municipality may charge interest on the installment required by subsection (3) from the date the development charge would have been payable in accordance with section 26 to the date the installment is paid, at a rate not exceeding the prescribed maximum interest rate”. In addition, section 26.2(3) of the *Development Charges Act, 1997* states, where clause 1(a) or (b) applies, the 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 the applicable clause to the date the development charge is payable.

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

#### **DEFINITIONS**

1. **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.
2. **City** – The City of Vaughan
3. **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 substantially increasing the size or usability thereof and includes redevelopment.
4. **Development Charges (DC):** A charge imposed against land in the City pursuant to the City-Wide and Are Specific Development Charges By-laws.
5. **DCM/CFO:** Deputy City Manager of Corporate Services, Chief Financial Officer, and Treasurer.
6. **Planning Act:** *The Planning Act*, R.S.O. 1990, c. P.13, as amended.



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**7. Total Accrued Amount:** Equal to the total of the development charges and interest which has accrued.

## **POLICY**

### **1. Legislative Framework**

#### 1.1. Installment payments under 26.1 of the Act

Under subsections 26.1(1), (2) and (3) of the Act, Development Charges shall be paid in equal annual installments, beginning at the earlier of first occupancy or occupancy permit under the *Building Code Act, 1992*, for:

- Rental housing development
- Institutional development.

#### 1.2. 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 installments from the date the development charges would have been payable, under section 26 of the Act, to the date of the installment is paid, at a rate not exceeding the maximum interest rate determined in accordance with section 26.3 of the Act.

#### 1.3. Development charge freeze under section 26.2 of the Act

Generally, subsection 26.2(1) of the Act states that the total amount of a Development Charge is determined under the City's Development Charge By-Laws based on:

- 1.3.1. The day an application for an approval of development under subsection 41(4) of the *Planning Act* was made pursuant to clause 26.2(1)(a) of the Act, or,
- 1.3.2. If clause 26.2(1)(a) of the 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 pursuant to clause 26.2(1)(b) of the Act.

#### 1.4. 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 clauses 26.2(1)(a) and (b) of the

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Act to the date the development charge becomes payable, in accordance with section 26.3 of the Act.

#### 1.5. Maximum interest rate under section 26.1 and 26.2

The rules for determining the maximum interest rate are prescribed under section 26.3 of the Act. The maximum interest rate being the average prime rate, as defined under the Act, plus 1%. The average prime rate will be determined quarterly in accordance with the adjustment dates prescribed under section 26.3 of the Act, or in accordance with any successor legislation.

## **2. Interest Rate Charged**

### 2.1 Interest Rate Charged for 26.2 and Timing

The interest rate that shall be charged is the maximum interest rate permitted under section 26.3 of the Act, at the time an application under subsection 26.2(1) of the Act is received by the City (i.e. the date an application is deemed complete). For developments with an application received under subsection 26.2(1) of the Act between January 1, 2020 and June 1, 2022 (i.e. where interest rate is not prescribed under the Act), a rate of 5% will be used.

The rate as prescribed above, shall be used for the duration of the application, save and except instances where a subsequent application for the same development has been made, or where the development qualifies under section 26.1 of the Act.

### 2.2 Interest Rate Charged for 26.1 and Timing

The interest rate that shall be charged for each instalment payment under section 26.1 of the Act, will be determined as follows:

- For the first installment payment, the maximum interest rate permitted under section 26.3 of the Act as at the day the development charges would have been payable (i.e. building permit issuance by the City);
- For all subsequent installment payments, the maximum interest rate permitted under section 26.3 of the Act as at the date of the installment payment

### 2.3 Interest Exceptions

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Notwithstanding sections 2.1 and 2.2 of this policy, at the discretion of the Treasurer, a rate less than the rate prescribed may be applied for payments under section 26.1, for developments that have taken advantage of a City Development Charge incentive and/or relief, current or future.

Further, in the event that an agreement has been entered into pursuant to section 27 of the Act, sections 2.1 and 2.2 of this Policy do not apply. An application that is eligible and makes use of a deferral under an existing City policy will be charged interest in accordance with the deferral policy during the deferral period.

### **3. Amendment or Revision of Interest Rate**

In the event that section 26.3 of the Act is repealed, a default interest rate of 5% shall be used for all eligible applications. Applications that had interest frozen prior to the repeal of section 26.3 of the Act will continue to pay the interest rate as prescribed at the time the application was made, in accordance with subsection 26.2(1) of the Act. For developments with installment payments under subsection 26.1(1), all future unpaid installments will attract the interest rate of 5%.

### **4. Interest Rate Publication and Notification**

Upon Council approval, this policy and the interest rates being used shall be made available on the City's website.

### **5. Compounding and Prorating**

All interest shall be compounded annually and shall accrue from the date the applicable application is received by the City (i.e. the date an application is deemed complete) until the date the accrued amount is calculated and payable. The applicant shall have fourteen (14) days interest free to make the payment. After the fourteen (14) day period, if payment has not been made, the interest will be recalculated and reflect the new amount owing. A 365-day calendar year shall be used for the purposes of prorating.

#### **5.1. Subsequent Application(s)**

If a subsequent application(s) is made for a development:

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- The date the subsequent application is received by the City (i.e. the date and application is deemed complete) 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 shall be deemed to be zero (0);
- Interest will be calculated as compound interest and begin to accrue from the date the subsequent application is received by the City (i.e. the date an application is deemed complete).

#### 5.2. Interest under section 26.1

If a development was one of the eligible types of development for the installment payments under section 26.1 of the Act, the Total Accrued Amount shall continue to accrue interest from the date of the issuance of building permit.

During the installment timeframe, interest shall continue to accrue on the outstanding balance. This shall continue until the date the Total Accrued Amount has been fully paid.

#### 6. Effective Date

Upon approval by Council, this policy shall take effect as at May 17, 2023 at 12 a.m. This policy may be repealed and/or modified by Council at any time.

#### 7. Transition

Any applicable application that was received by the City (i.e. the date an application is deemed complete) prior to this enactment of this policy by Council will have their interest calculated at 5%, compounded annually, as per the previous policy 12.C.08.

Applicable applications that are received by the City (i.e. the date an application is deemed complete) on or after the date that this policy is enacted by Council will be charged interest in accordance with this policy.

#### 8. Non-Applicability

If a development is eligible under (i) either section 26.1 or 26.2 of the *Development Charges Act, 1997*; and (ii) a deferral under an existing City policy,

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the interest charges outlined in this policy would apply only if the development does not make use of the deferral offered under the applicable City deferral policy.

## **9. Roles and Responsibilities**

### **9.1. DCM Corporate Services, City Treasurer and Chief Financial Officer**

- Maintains administrative authority and responsibility for the Development Charges Interest Policy -Under Section 26.1, 26.2 and 26.3 of the *Development Charges Act, 1997*; and,
- Approves department operating procedures and processes under this policy.

### **9.2. Director, Financial Planning and Development Finance**

- Responsible for administering 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.

### **9.3. Manager, Development Finance, Financial Planning and Development Finance**

- Assisting landowners, developers, builders and other stakeholders in determining the total amount of Development Charges that would be determined under the City's by-laws and the applicable interest rate that would apply.
- Collect all Development Charges, including interest, when due and payable.
- Monitor all development applications and ensure that the correct amount of the Development Charge is being used and that the Total Accrued Amount and interest rate.

### **9.4. Director, Building Standards or designate**

- For developments subject to phased payments under section 26.1, provide the Development Finance Department with the date:

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- A permit authorizing occupancy under the *Building Code Act, 1992* is issued
- A building is first occupied

**9.5. Director, Development Planning or designate**

- Confirm that an application was received by the City (and the date an application was deemed complete) for a site plan application or a zoning by-law amendment for the purposes of determining the Total Accrued Amount of the Development Charge and interest rate.

**ADMINISTRATION**

*Administered by the Office of the City Clerk.*

<b>Review Schedule:</b>	3 Years <small>If other, specify here</small>	<b>Next Review Date:</b>	May 9, 2026
<b>Related Policy(ies):</b>	12.C.08 DEVELOPMENT CHARGE INTEREST POLICY – UNDER SECTIONS 26.1 AND 26.2 OF THE DEVELOPMENT CHARGES ACT, 1997		
<b>Related By-Law(s):</b>			
<b>Procedural Document:</b>			

**Revision History**

<b>Date:</b>	<b>Description:</b>
Click or tap to enter a date.	
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