	<i>Development Charge Interest Policy</i>	
	Policy Category:	
	Policy No.:	Implementing Procedure No.:
Approving Authority: Council		Effective Date: January 1, 2020
Approved or Last Reviewed Date:		Next Review Year: 2025
Area(s) this policy applies to: Financial Strategy & Investments, Financial Services		Owner Department: Financial Strategy & Investments, Financial Services
Related Policy(ies): Development Charge Deferral Policy		

Note: Questions about this policy should be directed to the Owner Department.

1. Purpose Statement

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*.

2. Applicability and Scope Statement

This Policy will apply to all landowners, developers and builders who submit a site plan and/or zoning amendment application to the City of Markham.

3. Background

In 2019, the Province introduced through Bill 108, *More Homes, More Choice Act, 2019*, and further amended by Bill 138, *Plan to Build Ontario Together Act, 2019*, amendments to the *Development Charges Act, 1997* which established the rules and practices for charging interest, as permitted under sections 26.1 and 26.2 of the *Development Charges Act, 1997*. The legislation and related regulations did not prescribe or set a maximum interest rate to be charged, so each municipality is responsible for setting its own interest rate.

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 shall 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

For rental housing and institutional development, the first payment at occupancy is followed by five instalment payments on the anniversary date for total of six payments and, for non-profit housing development the first payment at occupancy is followed by twenty instalment payments on the anniversary date for a total of twenty-one payments.

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 City's Development Charge Bylaw) on:

- i) The day an application for an approval of a site plan development under subsection 41 of the *Planning Act* was made, or
- ii) If clause (i) does not apply, the day an application for a zoning 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.



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4. 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: means the construction, erection or placing of one or more buildings on land or the making of an addition or alteration to a building that has the effect of increasing the size or usability thereof, and includes redevelopment.

Development Charge(s): Markham's development charges, including City-wide Hard & Soft development charges, and Area Specific Development Charges ("ASDCs").

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

5. Policy Statements


2. Interest Rate Used

- a) An interest rate of 5% shall be used.
- b) Notwithstanding clause 2(a), at the discretion of the Chief Administrative Officer, a rate less than 5% may be applied for payments under section 26.1, beginning at building permit issuance, for developments that have taken advantage of a City development charge incentive and/or relief, current or future, if the developer secures future payments with a letter of credit, a mortgage or other security satisfactory to the Treasurer on the subject property.

3. Amendment or Revision to Interest Rates:

In the event the interest rate is amended or revised, the new interest rate shall 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

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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 - <https://www.markham.ca/>

5. Compounding and Prorating:

All interest shall be compounded annually and shall accrue from the date of the applicable application until the date the total accrued amount is fully paid. A 365 day calendar year, shall 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 shall be deemed to be zero (0)
- 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 shall continue to accrue interest from the date of the issuance of a building permit.

During the instalment 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 Markham Council, this policy shall retroactively take effect as at January 1, 2020 at 12 a.m.

7. Transition

To allow for a transition period, this policy does not apply to any development where:

- a) An application for a site plan (sections 41(4) of the *Planning Act*) or zoning by-law amendment (section 34 of the *Planning Act*) is not required, but the development:
 - Still qualifies for instalment payments under section 26.1 of the Act, and
 - A building permit has been issued for the development prior to July 1, 2020
- b) An application for a site plan under subsection 41(4) of the *Planning Act* is:
 - Made after January 1, 2020, and
 - A building permit has been issued for the development prior to July 1, 2020
- c) An application for a zoning amendment to a by-law passed under section 34 of the *Planning Act* is:
 - Made after January 1, 2020, and
 - A building permit has been issued for the development prior to July 1, 2020

6. Roles and Responsibilities

The Treasurer is delegated the authority to make administrative changes to this Policy that may be required from time to time due to legislative changes or if, in the opinion of the Treasurer, the amendments do not change the intent of the policy.

Financial Services Department

- Administration of this policy, including but not limited to:
 - 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
 - Ensuring that the total accrued amount is being calculated and charged
 - Collection of development charges, inclusive of interest, when due and payable



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Planning and Urban Design Department

- Determine the date that a Site Plan application is made for site plans in accordance with section 41(4) of the *Planning Act*, for the purposes of determining the date that development charge rates are frozen
- Determine the date that an application is received for a zoning by-law amendment (subsequently deemed complete) in accordance with section 34 of the *Planning Act*, for the purposes of determining the date that development charge rates are frozen

Building Standards Department

- For developments subject to phased payments under section 26.1, provide the Financial Services Department with the date:
 - A permit authorizing occupancy under the *Building Code Act, 1992* is issued
 - A building is first occupied