
From: McPhail, Roxanne <Roxanne.McPhail@york.ca> **On Behalf Of** Regional Clerk
Sent: Tuesday, June 29, 2021 10:52 AM
Subject: Regional Council Decision - Extension of Large Office and Affordable Rental Development Charges Deferrals Due to the Pandemic

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On June 24, 2021 Regional Council made the following decision:

1. Council approve the technical amendments to the “Office Buildings a Minimum of 75,000 square feet and on the Regional Centres and Corridors or specific Local Centres – Pilot Program”, shown as Attachment 1, which includes an extension of this pilot program from October 2022 to October 2024.
 -
2. Council approve the technical amendments to the “Affordable, Purpose-Built Rental Buildings” deferral program, shown as Attachment 2, which includes an extension of the availability of the 3-year, 1,500-unit allowance from October 2022 to October 2024.
3. The Regional Clerk circulate this report to local municipalities and the Building Industry and Land Development Association – York Chapter (BILD).

The original staff report is attached for your information.

Please contact Edward Hankins, Director, Treasury Office and Deputy Treasurer at 1-877-464-9675 ext. 71644 if you have any questions with respect to this matter.

Regards,

Christopher Raynor | Regional Clerk, Office of the Regional Clerk, Corporate Services

The Regional Municipality of York | 17250 Yonge Street | Newmarket, ON L3Y 6Z1
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Our Mission: **Working together to serve our thriving communities – today and tomorrow**

The Regional Municipality of York

Committee of the Whole
Finance and Administration
June 10, 2021

Report of the Commissioner of Finance

Extension of Large Office and Affordable Rental Development Charges Deferrals Due to the Pandemic

1. Recommendations

1. Council approve the technical amendments to the “Office Buildings a Minimum of 75,000 square feet and on the Regional Centres and Corridors or specific Local Centres – Pilot Program”, shown as Attachment 1, which includes an extension of this pilot program from October 2022 to October 2024.
2. Council approve the technical amendments to the “Affordable, Purpose-Built Rental Buildings” deferral program, shown as Attachment 2, which includes an extension of the availability of the 3-year, 1,500-unit allowance from October 2022 to October 2024.
3. The Regional Clerk circulate this report to local municipalities and the Building Industry and Land Development Association – York Chapter (BILD).

2. Summary

This report seeks Council approval to extend the time period for two development charge deferral programs due to the impact of pandemic containment measures on residential and non-residential construction. It also recommends amending these policies to reflect recent legislative changes and make other technical changes.

Key Points:

- In October 2019, Council approved new long-term development charges deferrals for Office Buildings a Minimum of 75,000 square feet and on the Regional Centres and Corridors or specific Local Centres – Pilot Program (“Large Office Buildings”) and Affordable, Purpose-Built Rental Buildings to help facilitate the development of complete communities.
- The development charge deferral for large office buildings is a three-year pilot program capped at 1.5 million square feet. The affordable rental program is not a pilot program, but has a three-year 1,500-unit cap.
- On March 11, 2020, the World Health Organization declared a global pandemic due to COVID-19.

- Over the past year, the Province has imposed varying restrictions on residential and non-residential construction activities to stop the spread of COVID-19.
- Staff recommend extending the time availability for these two development charge deferrals (Attachments 1 and 2), in light of the impact of restrictions on residential and non-residential construction.

3. Background

On October 17, 2019, Council approved two new long-term development charge deferrals to help facilitate the development of complete communities

On October 17, 2019, Council approved new long-term development charge deferrals for Large Office Buildings and Affordable, Purpose-Built Rental Buildings to help facilitate the development of complete communities. These programs were intended to help address the gaps in our communities, including the lack of affordable housing options available to mid-range income households, and the need for more large-format office development to support our growth knowledge economy.

The Large Office Building deferral is a pilot program, intended to run from October 2019 until October 2022. The Affordable, Purpose-Built Rental Building deferral, while not a pilot program, provided for 1,500 units over that same three-year period.

Under both programs, the full development charges payable could be deferred, interest-free, for between five and 20 years and neither program requires a letter of credit. Table 1 summarizes other key details of these policies, with additional information available on the Region's [website](#).

Table 1
Key Details of the Region's Financial Incentives for Complete Communities

Program	Total GFA/Units	Pilot program	Minimum threshold to qualify	Locational restriction
Large Office Buildings	1.5 million square feet	Yes – 3 years	4 storeys and 75,000 square feet (per building)	Regional Centres and Corridors or on specific Local Centres*
Affordable, Purpose-Built Rental Buildings	1,500 units over three years**	No	4 storeys and 'affordable'	Region-wide (5-year deferral) Regional Centres and Corridors or on specific Local Centres* (10- and 20-year deferral)

* As defined in the policies, available [here](#)

** Note: This program is not a pilot, however the availability is limited to 1,500 over three years. Staff would report back at the end of that three-year timeframe.

In March 2020 a global pandemic was declared, followed by a State of Emergency declaration at both the Provincial and Regional levels

On March 11, 2020, the World Health Organization (WHO) declared a global pandemic due to the spread of the COVID-19 virus. In order to protect the health and safety of all Ontarians, the Province responded by declaring a State of Emergency on [March 17](#) with the Region declaring a State of Emergency on [March 23](#).

To slow the spread of COVID-19, both residential and non-residential construction has been restricted on multiple occasions

Since the Provincial State of Emergency declaration in March 2020, and to slow the spread of COVID-19, non-essential construction has been restricted during each of the three waves of the pandemic. These Provincial restrictions have impacted both residential and non-residential construction, including developers of affordable, purpose-built rental buildings as well as developers of office buildings.

The development industry has also faced other COVID-19-related challenges including staffing challenges, requirements for enhanced safety and some supply chain disruption.

4. Analysis

The uptake on these development charge deferrals has been slow

Since Council approval of the two incentive programs, staff have actively engaged with both residential and non-residential stakeholders, providing them with information on the programs and meeting with them as needed. Thus far, there has been no uptake on the Large Office Building program, while only two affordable rental housing developments, totaling 261 new rental units (216 units in Newmarket and 45 units in Vaughan) have taken advantage of that deferral program.

Due to the pandemic, staff recommend extending the time availability for the Region's financial incentives for complete communities

As a result of the Provincial restrictions on residential and non-residential construction during the pandemic, staff are recommending that the Large Office Building pilot project be extended for two years (to October 2024)¹. Staff are also recommending that the original 3-year, 1,500-unit allowance for Affordable, Purpose-Built Rental Building program be extended for a similar two-year period (to October 2024). If the 1,500-unit allowance is reached prior to October 2024, staff will report back to Council on possible next steps.

¹ Note: Two years was chosen to accommodate for the current duration of the pandemic/State of Emergency, in addition to accounting for potential future restrictions.

By extending the timing availability for these development charges deferrals, the development industry can be better positioned to develop complete communities, that address the needs of both residents and businesses, in a post-pandemic environment.

Technical amendments to the deferral policies are also required to reflect recent changes to legislation

It is also being recommended that Council approve technical changes to these deferral policies. These changes are intended to reflect recent legislative changes, align with the new Regional policy template, provide clarification where appropriate and align wording from other Regional development charges deferral policies.

As an example, when these policies were approved by Council in October of 2019, they contemplated providing authority to defer community benefits charges. As a result of the changes under Bill 197, *COVID-19 Economic Recovery Act, 2020*, which received Royal Assent on July 21, 2020, upper-tier municipalities cannot levy these charges. Staff therefore recommend that these policies be amended accordingly.

Table 2 summarizes the changes to the policies.

Table 2
Summary of Amendments to Development Charges Deferral Policies to Facilitate the Development of Complete Communities

Deferral	Key Changes	Attachment
Large Office Buildings	Extend 3-year time availability of the pilot program Reflect legislative changes (e.g., removal of community benefits charges references), provide clarification, align to new Regional policy template, align wording with other development charges deferral policies	1
Affordable, Purpose-Built Rental Buildings	Extend timing of 3-year, 1,500-unit cap Reflect legislative changes (e.g., removal of community benefits charges references), provide clarification, align to new Regional policy template, align wording with other development charges deferral policies	2

5. Financial

If there is take up, the development charge deferral programs represent a financing cost to the Region but would also spur assessment growth and support social and economic development across the Region.

Extending the time availability of the deferral programs does not result in additional financing costs, as the caps on eligible square footage and unit are being maintained (1.5 million square feet for the Large Office Building deferral, and 1,500 units for the Affordable, Purpose-Built Rental Buildings deferral).

While deferring development charges delays development charges collections and results in lost interest revenue, the corresponding benefits to encouraging complete communities supports social development and economic growth across the Region, particularly as the Region emerges from the COVID-19 pandemic.

6. Local Impact

COVID-19 has impacted residential and non-residential development across all nine local municipalities. Extending the availability of these programs recognizes this and will help facilitate the development of complete communities across the Region.

7. Conclusion

The COVID-19 pandemic has impacted all stakeholders in the Region, including the development industry. Extending the time availability of the Large Office Building pilot program as well as the 3-year, 1,500-unit cap for the Affordable, Purpose-Built Rental Building program recognizes this.

Finally, staff will continue to monitor the uptake on these deferrals and report back to Council as required.

For more information on this report, please contact Edward Hankins, Director, Treasury Office and Deputy Treasurer at 1-877-464-9675 ext. 71644. Accessible formats or communication supports are available upon request.

Recommended by: *Laura Mirabella*
Laura Mirabella, FCPA, FCA
Commissioner of Finance and Regional Treasurer

Approved for Submission: 
Bruce Macgregor
Chief Administrative Officer

May 27, 2021
Attachments (2)
12866912



Development Charges Deferral for Office Buildings a Minimum of 75,000 square feet and on the Regional Centres and Corridors or specific Local Centres – Pilot Program - 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 meet the following criteria:

1. A minimum of four storeys above grade
2. A minimum of 75,000 square feet of gross floor area
3. Located on the Regional Centres and Corridors, or on specific Local Centres for those local municipalities without lands on Regional Centres and Corridors

Application

Subject to the terms and conditions as set out in this policy, this policy is available for office buildings that meet the following criteria:

- A minimum of four storeys above grade
- A minimum of 75,000 square feet of gross floor area
- Located on the Regional Centres and Corridors, or on specific Local Centres for those local municipalities without lands on Regional Centres and Corridors

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The specific Local Centres to which the policy applies are:

- Georgina: Keswick Secondary Plan Urban Centres as well as applicable portions of the Woodbine Corridor
- King: Core Areas in King City and Nobleton, as well as the King City Go Station Area
- Whitchurch-Stouffville: Community Core Area and Western Approach Area within the Community of Stouffville

Purpose

The purpose of this policy is to incentivize the development of additional larger office buildings on the Regional Centres and Corridors or on specific Local Centres to:

- 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 (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

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-development charges

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Gross Floor Area: As defined in 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

Local Centres: The specific Local Centres that qualify under this policy are:

- Georgina: Keswick Secondary Plan Urban Centres as well as applicable portions of the Woodbine Corridor
- King: Core Areas in King City and Nobleton, as well as the King City Go Station Area
- Whitchurch-Stouffville: Community Core Area and Western Approach Area within the Community of Stouffville

Office: As defined in 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

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

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

Description

1. Applications Previously Submitted

Any developer wishing to defer development charges for an office building covered under this policy who submitted a site plan application or zoning bylaw amendment application prior to Council's original approval of this policy, on October 17, 2019, may enter into a development charges deferral agreement with the Region:

- Subject to the terms and conditions of this policy
- Provided 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 years immediately after Council approved the original policy, on October 17, 2019

This Term will be subject to Extension of Time provisions in Term '19'.

2. Expression of Interest Agreement – Applications Not Previously Submitted

Any developer wishing to defer development charges for an office building covered under this policy who had not submitted a site plan application or zoning bylaw amendment application prior to the original Council approval of this policy, on October 17, 2019, may enter into a development charges deferral agreement with the Region

- Subject to the terms and conditions of this policy
- Provided they first enter into an expression of interest agreement with the Region

The ability to enter into an expression of interest agreement will begin on the date that Council approved the original policy, on October 17, 2019, and will end on the date three years after approval of this policy at 4:30 p.m.

The developer will only qualify to enter into an expression of interest agreement if, during the duration of this three-year period, 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
- Submitted an amendment to an existing application that results in additional gross floor area which is a minimum of 75,000 square feet threshold

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 '4' of this policy has not already been met
- The developer agrees to all of the Terms outlined in this policy

This Term will be subject to Extension of Time provisions in Term '19'.

3. Development Charges Deferral Agreement

Any developer wishing to defer development charges for an office building covered under this policy, 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.

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.

4. Development Charges Deferral Agreement – Rules

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.

Any developer who had entered into an expression of interest agreement must enter into a development charges deferral agreement within five years of the submission of a complete site plan application or zoning bylaw amendment application or an amendment to an existing application that results in additional gross floor area.

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 will be up to the Commissioner of Finance and the Chief Administrative Officer to determine qualification and whether the square footage cap may be exceeded.

This Term will be subject to Extension of Time provisions in Term '19'.

5. Duration of the Deferral

a. Duration

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The duration of the development charges deferral will vary based on the eligible gross floor area of the building and will be in accordance with Table 1 below.

Table 1
Duration of Development Charges Deferral

Gross Floor Area Size Threshold	Duration of Development Charges deferral available on Regional Centres and Corridors <u>or</u> on specific Local Centres
Between 75,000 square feet and 150,000 square feet	5 year*
Between 150,000 square feet and 250,000 square feet	10 year*
Greater than 250,000 square feet and less than or equal to 400,000 square feet	15 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

b. Start date

1. Development charges are deferred until 15 days immediately following the date that is 5 years, 10 years, 15 years, or 20 years (as applicable) after the date that the building permit is issued by the local municipality, for
 - 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
 - Applications submitted for an amendment to a by-law passed under section 34 of the *Planning Act* prior to January 1, 2020
2. Development charges are deferred until 15 days immediately following the date that is 5 years, 10 years, 15 years, or 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

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- 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
- 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 must notify the Region within five business days of the building first being occupied, whereupon 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 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)

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.

6. Development Charges Rates

The development charges rate will be the amount determined under the applicable development charges bylaw:

- a. Day of building permit issuance
 - 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 bylaw passed under section 34 of the *Planning Act* prior to January 1, 2020

- OR -

Development Charges Deferral for Office Buildings a Minimum of 75,000 square feet and on the Regional Centres and Corridors or specific Local Centres – Pilot Program

- b. Day of application –
 - 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 bylaw passed under section 34 of the Planning Act including and after January 1, 2020

For greater clarity, if clauses b(i) and b(ii) do 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.

7. Development Charges Payable

The amount of development charges payable to the Region, as required under the Act, will be based on the rates determined under Term '6' of this policy multiplied by the gross floor area of the office building, of which will 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 will only be on a per building basis.

8. Interest Waiver

All interest will be calculated using the development charges payable in Term '7' to this policy 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 2% per annum. All interest will accrue and be compounded.

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

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 '5' of this policy).

In the event unpaid development charges are added to the tax roll (Term '11'); interest will continue to accrue and be compounded until all outstanding charges are fully paid.

9. Duration of Development Charges Deferral for Office Buildings a Minimum of 75,000 square feet and on the Regional Centres and Corridors – Pilot Policy

This policy took effect on the day upon which it was originally approved by Council, on October 17, 2019.

This policy will expire eight years after the date of Council approval (October 17, 2019), at 4:30 p.m. An eight-year period takes into consideration two factors:

- A developer may enter into an expression of interest agreement any time during the three period, commencing immediately after Council approval and ending three years later at 4:30 p.m.
- Under Term '4' of this policy, any developer who had entered into an expression of interest agreement must enter into a development charges deferral agreement within five years of the submission of a complete site plan application or zoning bylaw amendment application or an amendment to an existing application that results in additional gross floor area.

Notwithstanding the above eight year expiration, this policy will be extended by four years to reflect the two year Extension of Time provisions, as they apply, in Term 19 of policy.

10. 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 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 or not there is a prescribed timeframe for the deferral
- Whether or not interest is waived
- Other incentives that may be provided, be they financial or otherwise

11. 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 '5' of this policy, or at the end of the development charge deferral timeframe when payment

Development Charges Deferral for Office Buildings a Minimum of 75,000 square feet and on the Regional Centres and Corridors or specific Local Centres – Pilot Program

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 + interest).

12. 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.

13. 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 will enter into any other agreements as required by the Regional Solicitor. Additional agreements include, but may not be limited to:

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

14. 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, will be borne by the developer.

15. Report Back to Council

Staff will 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.

This Term will be subject to Extension of Time provisions in Term '19'.

16. 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.

17. 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 75,000 square feet.

18. 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 75,000 square feet.

19. Extension of Time

References to time, or time between events in Terms '1', '2', and '4' will be extended by two years.

The minimum timeframe to report back to Council, as required under Term '15', will be extended by two years.

20. 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, Regional Municipality of York

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

Commissioner of Finance, Finance Department

- Responsibilities as identified under the Terms of this policy

Development Charges Deferral for Office Buildings a Minimum of 75,000 square feet and on the Regional Centres and Corridors or specific Local Centres – Pilot Program

- 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
- 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
- Monitor timing of payment to ensure compliance with Term '8' of the policy
- Notify, through the Commissioner of Finance, 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 '5' of this policy, the **Director, Treasury Office** will notify the owner of the property on the tax

Development Charges Deferral for Office Buildings a Minimum of 75,000 square feet and on the Regional Centres and Corridors or specific Local Centres – Pilot Program

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 in order to ensure interest is only forgiven (Term '8' 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](#)
- [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
- Memorandum, [Financial incentives for affordable rental housing and large office buildings](#), October 17, 2019
- Council Report, [Extension of Large Office and Affordable Rental Development Charges Deferrals Due to the Pandemic](#), June 24, 2021 (Hyperlink to be added)

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"/>

#12570521

Accessible formats or communication supports are available upon request.



Development Charges Deferral for Affordable, 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 affordable, purpose-built rental buildings that are a minimum of four storeys above grade.

Application

This policy is available for affordable, purpose-built rental buildings located within the boundaries of the Urban Area and Towns and Villages as identified in York Region Official Plan, Map 1 Regional Structure, subject to the terms and conditions as set out in this policy and/or modified through the required agreements.

For the purposes of this deferral, the development 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.

To be eligible, the development must be:

- A minimum of four storeys
- Affordable to the midrange income cohort (household incomes that fall between the fourth and sixth deciles of income distribution for York Region) with average rents that are less than, or equal to, 175% of Average Market Rent for private apartments, by bedroom type

Purpose

The purpose of this policy is to incentivize the development of affordable, purpose-built rental buildings that are a minimum of four storeys above grade. Additional affordable, purpose-built rental buildings could achieve the following outcomes:

- Increased affordable purpose-built rental supply in the Region
- More complete communities offering a range of housing options
- Promote live/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

Affordable: Rental housing that is less than, or equal to, 175% of Average Market Rent for private apartments, by bedroom type

Average Market Rent (AMR): The average actual rents paid by tenants for private apartments in York Region (Region-wide rents), calculated and published annually through the Canada Mortgage and Housing Corporation (CMHC) Fall Rental Market Report

Bedroom: A room that meets the requirements of a bedroom under the *Building Code Act, 1992*, S.O. 1992, c. 23 as amended, revised, re-enacted or consolidated from time to time, and any successor statute and/or the requirements of a bedroom under Ontario Regulation 332/12 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

Dwelling Unit: Means a room or suite of rooms used, or designed or intended for use by one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons

Local Centres: The specific Local Centres that qualify under this policy are:

- Georgina: Keswick Secondary Plan Urban Centres as well as applicable portions of the Woodbine Corridor
- King: Core Areas in King City and Nobleton, as well as the King City Go Station Area
- Whitchurch-Stouffville: Community Core Area and Western Approach Area within the Community of Stouffville

Regional Centres and Corridors: The Regional Centres are as 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 Centres and Corridors please contact the Director of Community Planning at extension 71505

Restrictive Covenant: A covenant registered on the title of the proposed development requiring it be developed and entirely operated as an affordable 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

Description

1. Development Charges Deferral Agreement

Any developer wishing to defer development charges for affordable, purpose-built rental buildings (minimum of four 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.

2. Development Charges Deferral Agreement – Rules

The deferrals under this policy will be available to a maximum of 1,500 units over a three year period, commencing immediately after Council originally approved this policy, on October 17, 2019. It will be available on a first-come, first served basis.

In the event more than one affordable, purpose-built rental building wishes to enter into a development charges deferral agreement with the Region on the same day, the result of which is to exceed the total unit cap during the three year period, it will be up to the Commissioner of Finance and the Chief Administrative Officer to determine qualification and whether the unit cap may be exceeded.

This Term will be subject to Extension of Time provisions in Term '18'.

3. Covenants Included in the Development Charges Deferral Agreement

Every development charges deferral agreement will include covenants on the part of the developer.

These covenants will include, but not be limited to, a covenant by the developer(s) that:

- a) The affordable, purpose-built rental building will remain affordable for a period of not less than 20 years
- b) Monthly rents will not be increased at a rate that brings them above 175% of Average Market Rent for private apartments, by bedroom type
- c) For those units that achieve 125% Average Market Rent or less for private apartments, by bedroom type, and do not have to satisfy the unit split requirement identified in Term '4' of this policy, that they will be maintained at 125% Average Market Rent or less for private apartments, by bedroom type, for the duration of the development charges deferral
- d) They will notify the Region on an annual basis, at an agreed upon date, in an agreed upon manner, of the rents, by bedroom type, in the affordable, purpose-built rental building
- e) If they are found to be in non-conformity with clauses 'a', 'b', 'c', or 'd' of this Term ('3'), development charges will be made payable (including interest)

- f) 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 development charges deferral agreement

4. Duration of the Deferral

a. Duration

The duration of the development charges deferral will vary based on the location, total number of units and number of units that are two or more bedrooms, in accordance with Table 1 below.

Table 1
Duration of Development Chart Deferral

Criteria*	Duration of Development Charges deferral
1. Affordable rental housing	5 Year
1. Affordable rental housing 2. Located in Regional Centres and Corridors or specific Local Centres	10 Year
1. Affordable rental housing 2. Minimum of 100 Dwelling Units 3. Minimum of 50% of the total number of dwelling units in the affordable, purpose-built rental building must have two or more bedrooms (unit split requirement)**	10 Year
1. Affordable rental housing 2. Located in Regional Centres and Corridors or specific Local Centres 3. Minimum of 200 Dwelling Units 4. Minimum of 50% of the total number of dwelling units in the affordable, purpose-built rental building must have two or more bedrooms (unit split requirement)**	20 Year

*Note:

- All criteria must be met to qualify for each Duration of Development Charges Deferral

**Note:

- Units that achieve 125% of Average Market Rent or less for private apartments, by bedroom type, may not have to satisfy the unit split requirement

Development Charges Deferral for Affordable, Purpose-Built Rental Buildings

- In addition, those units that achieve 125% of Average Market Rent or less for private apartments, by bedroom type, will be excluded from the total number of units used to calculate the unit split calculation
- Those units that have been excluded from the unit split requirement, as a result of achieving 125% of Average Market Rent or less for private apartments, by bedroom type:
 - must be maintained at 125% of Average Market Rent or less for private apartments, by bedroom type for the duration of the Development Charges deferral
 - after the Development Charges deferral they must still be less than, or equal to, 175% of Average Market Rent for private apartments, by bedroom type
- These units must remain less than, or equal to, 175% of Average Market Rent for private apartments, by bedroom type, for the duration of the restrictive covenant as identified under Term '8' of this policy.

b. Start date

1. Development charges are deferred until 15 days immediately following the date that is 5 years, 10 years, or 20 years (as applicable) after the date that the building permit is issued by the local municipality
 - Applications submitted for approval of a development in a site plan control area under subsection 41(4) of the Planning Act for an affordable, purpose-built rental building prior to January 1, 2020, or
 - Applications submitted for an amendment to a bylaw passed under section 34 of the *Planning Act* prior to January 1, 2020
2. Development charges are deferred until 15 days immediately following the date that is 5 years, 10 years, or 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
 - Applications submitted for approval of a development in a site plan control area under subsection 41(4) of the Planning Act for an affordable, purpose-built rental building including and after January 1, 2020, or
 - 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 must notify the Region within five business days of the building first being occupied, whereupon 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 Deferral for Affordable, Purpose-Built Rental Buildings

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

- Change of use from an affordable, purpose-built rental building
- Failure to notify the Region on an annual basis, at an agreed upon date and in an agreed upon manner of the rents in the affordable, purpose-built rental building
- Monthly rents exceeding 175% of Average Market Rent for private apartments, by bedroom type
- Monthly rents exceeding 125% of Average Market Rent for private apartments, by bedroom type, for those units that do not have to satisfy the unit split requirement identified in Term '4' of this policy. This trigger only applies for the duration of the Development Charges deferral
- 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.

5. Development Charges Rates

The Regional development charges rate will be the amount determined under the applicable development charges bylaw:

- a. Day of building permit issuance
 - i. Applications submitted for approval of a development in a site plan control area under subsection 41(4) of the Planning Act for an affordable, 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
 - i. Applications submitted for approval of a development in a site plan control area under subsection 41(4) of the Planning Act for an

affordable, 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 clauses b(i) and b(ii) do not apply to an affordable, 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 is payable in accordance with section 26 of the Act.

6. 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 '5' of this policy multiplied by the number of dwelling units, of which will be determined on the day that the developer enters into a development charges deferral agreement with the Region.

7. Interest Waiver

All interest will be calculated using the development charges payable in Term '6' to this policy 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 2% per annum. All interest will accrue and be compounded.

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

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 '4' of this policy).

In the event unpaid development charges are added to the tax roll (Term '10'), interest will continue to accrue and be compounded until all outstanding charges are fully paid.

8. 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 an affordable rental building for

a period expiring 20 years from the date that an occupancy permit is issued for the affordable, purpose-built rental building.

The burden of the restrictive covenant will run with the title of the land.

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 or not there is a prescribed timeframe for the deferral
- Whether or not interest is waived
- Other incentives that may be provided, be them financial or otherwise

10. 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 ‘4’ of this policy, or at the end of the development charge 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 + interest).

11. 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.

12. Other Agreements Required

In addition to the requirements that the developer enter into a development charges deferral agreement with the Region, the developer will enter into any other

Development Charges Deferral for Affordable, Purpose-Built Rental Buildings

agreements as required by the Regional Solicitor. Additional agreements include, but may not be limited to:

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

13. 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, will be borne by the developer.

14. Report Back to Council

Staff will report back to Council prior to the end of this Council term, on the results of the rental incentives provided and provide a recommendation on whether additional steps should be taken to further facilitate affordable, purpose-built rental development.

This Term will be subject to Extension of Time provisions in Term '18'.

15. Non-Applicability – 36 month Development Charges Deferral

For greater clarity, any affordable, purpose-built rental building that avails itself of the deferral under this policy is not eligible for the Region's 36 month development charges deferral for purpose-built rental buildings that are a minimum of four storeys.

16. 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 an affordable, purpose-built rental building.

17. 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.

18. Extension of Time

The three year timeframe, as contemplated in Term ‘2’, will be extended by two years.

The minimum timeframe to report back to Council, as required under Term ‘14’, will be extended by two years.

19. 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, Regional Municipality of York

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

Commissioner of Finance, Finance Department

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

Regional Solicitor, Legal Services

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

Chief Planner, Planning and Economic Development, Corporate Services Department

- Assist in determining qualification for the deferral and recommending of the affordable, purpose-built rental building for application
- Other 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, and the development charges payable
- Enforce the deferral policy
- Collect all development charges when due
- Monitor timing of payment to ensure compliance with Term '7' of the policy
- Notify, through the Commissioner of Finance, 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 , Corporate Services Department

- 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 '4' 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 in order to ensure interest is only forgiven (Term '7' 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

- [Building Code Act, 1992, S.O. 1992, c. 23](#)
- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 82/98](#)
- [Ontario Regulation 332/12](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)
- [York Region Official Plan, Map 1 - Regional Structure](#)
- [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](#)

Appendices

- Council Report, [Draft Rental Housing Incentives Guideline and Community Improvement Plan](#), June 28, 2018
- Council Report, [Purpose-Built Rental Housing Incentives](#), October 17, 2019
- Memorandum, [Financial incentives for affordable rental housing and large office buildings](#), October 17, 2019
- Council Report, Extension of Large Office and Affordable Rental Development Charges Deferrals Due to the Pandemic, June 24, 2021 (Hyperlink to be added)

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.