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**From:** McPhail, Roxanne <Roxanne.McPhail@york.ca> **On Behalf Of** Regional Clerk  
**Sent:** Thursday, December 2, 2021 9:56 AM  
**Subject:** Regional Council Decision - 2022 Development Charges Bylaw: Policy Directions

On November 25, 2021 Regional Council made the following decision:

1. Council approve the use of the 2041 planning horizon for the 2022 Development Charges Background Study and Bylaw.
2. Council approve treating stacked townhomes as apartments for the purposes of levying development charges.
3. Council approve charging all development-charge-eligible residential dwellings that are less than 700 square feet, the small apartment rate.
4. Council approve the revisions to existing policies, shown in Attachment 1, that include:
  - a. Removal of four-storey minimum requirement in the “Development Charges Deferral for Purpose-Built Rental Buildings” policy;
  - b. Revisions to align with current legislation in the “ Development Charges Deferral for Office Buildings” and “ Development Charges Deferral for Open Air Motor Vehicle Storage Structures” policies, and;
  - c. The provision of a 14-day grace period under the Region’ s “Development Charge Interest Policy — Under sections 26.1 and 26.2 of the Development Charges Act, 1997”.
5. Council approve the policies, shown as Attachment 2, which codify the existing development charges deferrals for retail buildings and high-rise residential buildings.
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6. The Regional Clerk circulate this report to the 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

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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  
November 11, 2021

Report of the Commissioner of Finance

## 2022 Development Charges Bylaw: Policy Directions

### 1. Recommendations

1. Council approve the use of the 2041 planning horizon for the 2022 Development Charges Background Study and Bylaw.
2. Council approve treating stacked townhomes as apartments for the purposes of levying development charges.
3. Council approve charging all development-charge-eligible residential dwellings that are less than 700 square feet, the small apartment rate.
4. Council approve the revisions to existing policies, shown in Attachment 1, that include:
  - a. Removal of four-storey minimum requirement in the “Development Charges Deferral for Purpose-Built Rental Buildings” policy;
  - b. Revisions to align with current legislation in the “Development Charges Deferral for Office Buildings” and “Development Charges Deferral for Open Air Motor Vehicle Storage Structures” policies, and;
  - c. The provision of a 14-day grace period under the Region’s “Development Charge Interest Policy — Under sections 26.1 and 26.2 of the *Development Charges Act, 1997*”.
5. Council approve the policies, shown as Attachment 2, which codify the existing development charges deferrals for retail buildings and high-rise residential buildings.
6. The Regional Clerk circulate this report to the local municipalities and the Building Industry and Land Development Association – York Chapter (BILD).

### 2. Summary

The Region’s 2017 Development Charges Bylaw ([2017-35](#)), as amended (“2017 Bylaw”), expires on June 16, 2022 . This report seeks Council approval of the planning horizon and key

development charges policies, in support of the Region's 2022 Development Charges Bylaw ("2022 Bylaw").

Key Points:

- As required by the *Development Charges Act, 1997* ("Act"), staff are currently preparing a development charges background study ("Background Study") to determine the rates to be set out by the new bylaw
- The update process also includes a review of the Region's development charges policies
- Staff recommend a 2041 planning horizon for the 2022 Bylaw and Background Study
- To better align with the Regional objectives to support a mix and range of housing options, staff recommend treating stacked townhouses as apartments and charging any residential dwelling, less than 700 square feet, the small apartment rate
- In addition, staff recommend removing the minimum four-storey requirement under the Region's 36-month development charges deferral for purpose-built rental buildings to facilitate more rental supply
- Staff also recommend changes to various development charges policies to reflect technical and legislative changes, including the introduction of a 14-day grace period under the Region's [Development Charge Interest Policy — Under sections 26.1 and 26.2 of the Development Charges Act, 1997](#) ("Interest Policy")

### 3. Background

#### **To continue to collect development charges, the Region must update the 2017 Bylaw prior to its expiration on June 16, 2022**

Development charges are the primary funding source for the Region's growth infrastructure, contributing about 60% of the 2021 growth-related 10-year capital plan.

The 2017 Bylaw will expire on June 16, 2022. For the Region to continue to collect development charges, the Act requires that the 2017 Bylaw be updated, and come into effect on, or before, June 17, 2022.

The 2022 Bylaw would be the first bylaw since the Province introduced the new Lands Need Assessment methodology and has been developed concurrently with the update of the Regional Official Plan and infrastructure master plans.

#### **Council endorsed a workplan for the 2022 Bylaw**

Staff initiated the bylaw update process in early 2021. This work included establishing an interdepartmental working group to ensure all deliverables necessary to inform the 2022 Bylaw are developed within the required time. Externally, this work involved engaging with stakeholders, including the local municipalities and BILD/the BILD Working Group. The BILD Working Group consists of representatives of low-rise developments, high-rise and

Industrial/Commercial/Institutional (ICI) developments as well as engineering and legal consultants.

On [June 24, 2021](#), Council endorsed the workplan for the 2022 Bylaw and Background Study, outlined in Table 1 below. The timeline included the tabling of the 2022 Bylaw and Background Study in February of 2022 with consideration of approval by Council in May. The dates and elapsed time meet all prescribed timelines under the Act.

Since Council approval of the timeline, staff have engaged Hemson Consulting Limited to provide peer review and advisory services on the 2022 Bylaw.

**Table 1**  
**Key Dates in the 2022 Bylaw Process Timeline**

Deliverables	Dates	Elapsed Time
2022 Bylaw and Background Study tabled at Committee of the Whole*	February 3, 2022	
And Notice of public meeting published in all local Metroland newspapers**		
Public meeting at Committee of the Whole***	March 3, 2022	
2022 Bylaw to Council for approval	May 26, 2022	
<b>2022 Bylaw and rates in effect</b>	<b>June 17, 2022</b>	

\*Note: The Background Study and Bylaw would be available upon publication of the Committee agenda, which is expected to be January 28, 2022

\*\*Note: Authority to publish notice provided in June 2021 Council report

\*\*\*Note: If a second public meeting is required, it would be held at the April 7 meeting of Committee of the Whole. Notice for the second public meeting would be issued on March 10, giving 28 days between notice and the meeting

## 4. Analysis

### 2022 BYLAW - PLANNING HORIZON

#### The 2022 Bylaw is being updated concurrently with the Regional Official Plan and infrastructure master plans

The Act requires that, through the background study, a municipality demonstrates the need for infrastructure arising from anticipated growth and development over the planning horizon of the bylaw. The Region’s 2017 Bylaw uses a planning horizon to 2031.

Currently, the Region's infrastructure master plans are being completed in coordination with the Municipal Comprehensive Review (MCR) using the Council-endorsed principle of aligning growth with infrastructure. These plans build upon previously approved master plans and the Region's capital plan. It is anticipated that the MCR, infrastructure master plans and the update of the 2022 Bylaw will be finalized concurrently in 2022.

The planning horizon of a development charges bylaw may differ from that of an Official Plan. Many of the Region's neighboring municipalities have used a shorter planning horizon for their background studies compared to their official plans.

### **A 20-year planning horizon for the 2022 Bylaw balances long term infrastructure needs and forecasting accuracy**

While the updated Regional Official Plan and infrastructure master plans will contemplate a 30-years planning horizon to 2051, staff are recommending a 20-year planning horizon to 2041 for the 2022 Bylaw. Key considerations underpinning this recommendation are:

- A planning horizon to 2041 (20 years) strikes a balance between capturing long-term infrastructure needs while mitigating the forecasting risks with a 30-year planning horizon
- The master plans that support growth to 2051 are still under development. However, project costs and timing to 2041 have been already reviewed by Council as part of budgets and previously approved master plans
- Neighbouring municipalities have not used a 30-year horizon for their development charges bylaw

Twenty years is the maximum recommended planning horizon for development charge-eligible services for the 2022 Bylaw. Where appropriate, some services may choose to use a horizon to 2031. Through regulations, transit is the only service that is limited to a 10-year planning horizon.

It is anticipated that subsequent bylaw updates could contemplate growth to 2051.

## **2022 BYLAW – DC POLICIES TO SUPPORT MIX AND RANGE OF HOUSING**

### **Development charges policy updates are proposed to align with Council's housing priorities**

As part of the update process, staff have undertaken a detailed review of all development charges policies to ensure that they align with the provincial planning framework, the Regional Official Plan update, the Act, and that they support Council's housing priorities to address a lack of affordable and rental housing options. This work on the 2022 Bylaw continues to build on Council's long history of prioritizing and supporting a mix and range of housing options, which include the following initiatives:

- Implementing a [10-year Housing and Homelessness Plan](#), [Housing Solutions: A place for everyone – Phase 2 2019 to 2023](#), [Making Ends Meet Strategy](#), and [Make Rental Happen Plan](#)
- Providing serviced land for housing supply for just over 221,000 people and a reserve of [4,000 persons to support purpose-built rental](#)
- Establishing [tax ratio of one for multi-residential property class](#)
- Adopting development charges deferral policies for [rental](#) and [affordable rental housing](#)
- [Establishing the Housing Affordability Task Force](#)

## **Treating stacked townhouses as apartments helps to facilitate more affordable ground-related built forms**

Stacked townhouses typically have three or more dwelling units, joined by common sidewalls with dwelling units entirely or partially above another. They are generally more affordable and denser than other ground-related built forms, filling a gap in the spectrum of densities and affordability needed to create complete communities.

The Region's 2017 Bylaw has four categories of residential charges: single and semi-detached dwelling, multiple-unit dwelling, large apartment, and small apartment. The differences in the rates are based on the average anticipated occupancy levels, or persons per unit, for each residential category. Stacked townhouses are charged a multiple unit dwelling rate. Staff is recommending that stacked townhomes be treated as apartments in the 2022 Bylaw for the following reasons.

Firstly, the 2022 Bylaw and Background Study uses Statistics Canada data to forecast persons per unit in each type of dwelling to determine the residential development charges rates. The proposed treatment of stacked townhouses aligns with the Statistics Canada definition of the apartment category which includes stacked townhouses.

Further, a review of over 1,500 stacked townhouses built in the Region since 2016 showed that they are more comparable to large apartments in features and size than to conventional townhouses. The average household occupancy, or persons per unit, in a typical stacked townhouse is also found to more closely resemble a large apartment. Finally, many neighbouring and local municipalities have started to treat stacked townhouses as apartments including: Peel, Toronto, Halton, Hamilton, Ottawa, Richmond Hill, East Gwillimbury, and Whitchurch-Stouffville.

## **Tiny homes of less than 700 square feet will be charged the small apartment rate to better reflect the size of this affordable built form**

Tiny homes are small, self-contained residential units built for year-round use with a living area that includes a kitchen, dining, bathroom and sleeping area. Despite their size, tiny homes must comply with the health and safety requirements of Ontario's Building Code, municipal zoning and other local bylaws. Tiny homes are an emerging, ground-related and affordable

housing option, typically costing less than \$100,000 and, required by the Building Code, must be at least 188 square feet.

Under the 2017 Bylaw, these homes would be assessed at a single-detached dwelling rate. The same would be true under the Region's local municipal DC bylaws. However, based on observed sizes across Ontario, these homes appear to be closer to, if not smaller than, small apartments.

Staff are therefore recommending that, for the 2022 Bylaw, any residential dwelling, less than 700 square feet, be charged the small apartment rate<sup>1</sup>.

### **Removal of the four-storey requirement from the 36-month development charges deferral policy for purpose-built rental buildings could help make more rental happen**

In 2017, Council approved a 36-month, interest-free, development charges deferral for purpose-built rental buildings that were a minimum of four storeys above grade. The four-storey requirement in the policy was intended to encourage high-rise purpose-built rental development across the Region.

Since that time, it was brought to staff's attention that there are limitations on building heights in certain locations. For example, developers are prohibited from meeting the minimum four-storey requirement in some heritage districts. Staff have also seen low-rise, purpose-built rental development not proceed due to inability to access the deferral due to the height requirement.

To support more purpose-built rental across the Region of any height, staff recommend removing the four-storey requirement from the 36-month development charges deferral for purpose-built rental buildings (Attachment 1). Staff also propose amending the policy to align with current legislation and other Regional development charges deferral policies and to provide clarification.

### **Changes to the Act provide further development charges exemptions for additional units in existing and new buildings**

Additional residential units, or secondary suites as they are often referred to, is a form of gentle intensification. They help to add to the rental supply and accommodate specific housing needs such as that of multi-generational families.

Bill 108, *More Homes, More Choice Act, 2019* ("Bill 108"), amended the Act by expanding development charges exemptions for additional units in existing and new buildings. Subject to restrictions, the Act now not only provides development charges exemptions for additional

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<sup>1</sup> Note: This is similar to what is provided in Mississauga and Ottawa

dwellings in, or ancillary to, existing residential buildings, but also for additional dwellings in, or ancillary to, new residential buildings. These new exemptions will be reflected in the 2022 Bylaw.

**The 2022 Bylaw will also reflect other recent legislative changes premised upon facilitating the development of affordable housing options**

The 2022 Bylaw will also be updated to incorporate other amendments to the Act, through Bill 108 and its associated regulatory framework, which were largely premised upon facilitating affordable housing options, including rental and non-profit housing developments. Table 2 provides further details pertaining to these changes.

**Table 2  
Changes to be Reflected in the 2022 Bylaw**

Area	Detail
<b>Phased development charges payments*</b>	
Rental and non-profit housing **	Development charges paid in equal annual instalments over five years for rental housing and over 20 years for non-profit housing (payments begin at occupancy)
<b>Exemptions</b>	
Conversions of common areas to new units in existing rental buildings	Common areas in existing rental buildings can be converted into residential units and be exempt. Limited to additional units equivalent to the greater of 1 and 1% of existing units

\* Note: The Interest Policy provides for a 5% interest rate on developments that phase in their payments

\*\*Note: Also applies to institutional development

**The use of the 700-square-foot threshold to delineate large and small apartments continues to be appropriate**

As part of the work on the 2017 Bylaw, Council revised the threshold to delineate large and small apartments, from 650 square feet to 700 square feet. At the time, staff also [committed](#) to reviewing this threshold as part of the work on the next development charges bylaw review.

Staff analysis, using 2016 Census and size data of close to 37,000 apartments, confirmed that a 700-square-foot threshold continues to be appropriate to delineate large and small apartments in York Region for the purposes of the 2022 Bylaw.

As part of the review, staff also examined the implications of raising the delineation point. Any substantial increase in the delineation point would also increase both the large and small

apartment rate as the average occupancy (a key driver for the rates) would be higher for both categories.

Finally, raising the delineation point to a threshold not supported by data (e.g., 850 square feet) would result in a “de facto” conflating of the two apartment categories into one, and indirectly go against precedent in *Hamilton Halton Home Builders’ Association v. The Regional Municipality of Halton*, 2016 ONSC 3807 decision, making the 2022 Bylaw vulnerable to appeal.

### **Staff also reviewed alternative residential rate structure approaches**

Staff reviewed alternative rate structure approaches for the 2022 Bylaw, including, conflating the apartment categories into one and levying a per-square-foot charge. Table 3 summarizes key considerations as to why they are not being proceeded with at this time.

**Table 3**  
**Alternative rate structures and considerations**

Alternative Structure	Considerations
Single apartment rate	<ul style="list-style-type: none"> <li>• Municipalities will be challenged to use this approach as it goes against Ontario Municipal Board and Divisional Court decision* noting issue of cross-subsidization</li> <li>• Does not reflect different draw on services resulting from significantly different average occupancy in large versus small apartments</li> </ul>
Per-square-foot charge	<ul style="list-style-type: none"> <li>• Act requires a clear link between the “increased capital costs” and “increased needs for services” resulting from growth as development charges are a cost recovery tool as opposed to a tax</li> <li>• The relationship between the size of the dwelling and the need for Regional services cannot be established</li> </ul>

\*Note: *Hamilton Halton Home Builders’ Association v. The Regional Municipality of Halton*, 2016 ONSC 3807

### **Regional development charges, as a share of new home prices, have remained relatively stable over the last decade**

Using 2012 as a base year and compared to 2021, Regional development charges, as a share of new housing prices, have remained almost unchanged, at about 4.5% averaged across all structure types. This indicates that Regional development charges do not materially impact the affordability of new housing despite increases in rates over the years.

## OTHER DEVELOPMENT CHARGES POLICIES

### Staff recommend technical amendments to the Region’s other development charges deferral policies

In addition to amending the 36-month development charges deferral policy for purpose-built rental buildings, staff are proposing amendments to the Region’s other development charges deferral policies. Table 4 summarizes these changes.

The development charges deferral policy for open air motor vehicle storage structures also includes a requirement to report back on the uptake on this policy as part of the process to update the 2017 Bylaw. Since Council approval in 2018, there have been no development charges deferrals executed under this policy.

**Table 4**

#### Summary of Amendments to Other Development Charges Deferral Policies

Deferral Policy	Key Changes	Attachment
Office Buildings	To align with current legislation and other Regional development charges deferral policies and to provide clarification	1
Open Air Motor Vehicle Storage Structures		
Retail Buildings	Codifying existing policy	2
High Rise Residential Buildings		

### Staff recommend amending the Interest Policy to provide up to a 14-day grace period

On February 27, 2020, Council approved the [Interest Policy](#), applying to developments that freeze development charges at site plan or zoning bylaw amendment application (Section 26.2 of the Act) or those developments who phase in their development charge payments (under Section 26.1 of the Act). Under the Interest Policy, all interest is compounded annually and accrues from the date of the eligible application until the date the total accrued amount is fully paid (a 365-day calendar year is used for the purposes of prorating).

As the total accrued amount is calculated on a per diem basis, the developer is required to pay the total development charges on the prescribed date for which the interest has been calculated. If the date payable is not met, the interest must be recalculated and a new payment/cheque, with the revised amount payable, would be required.

Feedback from the local municipalities indicated that stakeholders would benefit from a grace period to address this administrative process.

Staff therefore recommend that, for those developments that have indicated they are achieving building permit status, up to a 14-day grace period be provided, for which interest is not charged. If the developer does not pay the applicable amount during that period, then interest would be recalculated to reflect the new payment date (including the number of days in the grace period), and no additional grace period would be provided. These proposed changes are shown in Attachment 1 to this report.

## 5. Financial

### Some of the recommended changes may have financial implications for the Region

Table 5 provides a summary of the financial implications of the recommended development charges policy changes.

**Table 5**

#### **Financial Implications of the Recommended Policy Changes for the Region**

<b>Recommended Changes</b>	<b>Financial Implications</b>
Treat stacked townhouses as apartments	None
Charge all development charges-eligible residential dwellings under 700 sq. ft. the small apartment rate	None
Removal of the four-story requirement from the 36-month deferral policy for purpose-built rental buildings	Possible, dependent on uptake
Technical changes to development charges deferral policies	None
Up to 14-day grace period under the Interest Policy	Possible, dependent on uptake

Note: Legislatively required changes, such as exemptions for additional residential units and conversion of common spaces in rental buildings, could result in financing costs to the Region that would largely depend on uptake

While some of the changes may have financial implications for the Region, they would also help support the Region’s objective of providing appropriate housing for all ages and stages of life and help facilitate the creation of new rental units. Staff will be closely monitoring the uptake and impacts of the proposed policy changes. The recommended changes align with the objectives of Vision 2051 and the 2019 to 2023 Strategic Plan.

## 6. Local Impact

Development charges help fund vital growth-related infrastructure that benefits all local municipalities. The policy recommendations contained herein, which reflect consultation with

local municipal finance and planning staff, benefit all nine municipalities through helping to facilitate a mix and range of housing options and by way of administrative improvements of the Region's other development charges policies.

Regional staff will continue to consult with the local municipalities throughout the process on the 2022 Bylaw and Background Study.

## 7. Conclusion

This report recommends several development-charges-related policy changes as part of the work on the 2022 Bylaw, Background Study, and associated policies.

The development of the 2022 Bylaw and Background Study will continue, working towards tabling in February 2022 with Council consideration of passage in May 2022. Once approved, the 2022 Bylaw, including the new rates, would come into effect on June 17, 2022.

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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:

**Jason Li, CPA, CA**

Acting Commissioner of Finance and Regional Treasurer



Approved for Submission:

**Bruce Macgregor**

Chief Administrative Officer

October 29, 2021

Attachments (2)

eDOCS# 13146115



## Development Charges Deferral for Purpose-Built Rental Buildings - REVISED

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Approved By:

Approved On:

Last Reviewed: October 17, 2019

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### Policy Statement

A policy governing the deferral of Regional development charges and area-specific development charges for purpose-built rental buildings ~~that are a minimum of four (4) storeys that are above grade.~~

~~Upon the date a community benefits charges bylaw is adopted by Regional Council and comes into effect, this policy shall include the deferral of the Regional community benefits charges applicable to purpose-built rental buildings.~~

### Application

This policy is available for purpose-built rental buildings in York Region subject to the terms and conditions as set out in this policy. For the purposes of this deferral, the building may be registered as a condominium, but it must be entirely operated as a rental property for a period of not less than 20 years.

### Purpose

The purpose of this policy is to incentivize the development of purpose-built rental buildings ~~that are a minimum of 4 storeys and that are above grade.~~ Additional purpose-built rental buildings in the Region could achieve the following outcomes:

- Increased purpose-built rental supply

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- More complete communities offering a range of ownership tenure

## Definitions

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

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

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

**Development Charges:** The Region's Development Charges, including any area-specific development charges

**Restrictive Covenant:** A covenant registered on the title of the land for the proposed development requiring it be developed and entirely operated as a rental building for a period of not less than 20 years

**Schedule 'I' Bank:** As referenced in subsection 14(1)(a) of the *Bank Act, S.C. 1991, c. 46*. These are domestic banks and are authorized under the *Bank Act* to accept deposits, which may be eligible for deposit insurance provided by the Canadian Deposit Insurance Corporation

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

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

~~(b) That is situated between the top of the floor and the ceiling above the floor, if there is no floor above it~~

~~**Valuation Date:** This means, for the purposes of Community Benefits Charges, with respect to land that is the subject of development or redevelopment~~

~~a) The day before the day the building permit is issued in respect of the development or redevelopment, or~~

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~~b) If more than one building permit is required for the development or redevelopment, the day before the day the first permit is issued~~

## Description

### 1. Development Charges Deferral Agreement

Any developer wishing to defer development charges for a purpose-built rental building (~~minimum of four (4) storeys~~) must enter into a development charges deferral agreement with the Region.

A development charges deferral agreement will only be executed by the Region provided that the developer can immediately upon execution of the agreement attain building permit issuance by the local municipality.

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

### 2. Duration of the Deferral

- a) Development charges are deferred until 15 business days immediately following the date that is 36 months after the date that the building permit is issued by the local municipality for:
- i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for a purpose-built rental building prior to January 1, 2020, or
  - ii. Applications submitted for an amendment to a bylaw passed under section 34 of the Planning Act prior to January 1, 2020
- b) Development charges are deferred until 15 business days immediately following the date that is 36 months after the earlier of the date of the issuance of a permit under the *Building Code Act, 1992*, authorizing occupation of the building or the date the building is first occupied for:
- i. Applications submitted for ~~approval~~ of a development in a site plan control area under subsection 41 (4) of the Planning Act for a purpose-built rental building including and after January 1, 2020, or
  - ii. Applications submitted for an amendment to a bylaw passed under section 34 of the Planning Act including and after January 1, 2020

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

Development charges will be payable prior to the 36-month period should any of the following trigger events occur:

- Change of use from a purpose-built rental building
- Material breach of the restrictive covenant
- Any material default under the terms of the security or guarantees as stipulated in the agreement(s)
- Sale, or transfer of ownership, of the property unless an assumption agreement is entered into
- Any other material default as defined in the agreement(s)

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

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

### **3. Development Charges Rates**

The Regional development charges rate, or area-specific development charges rate, will be the amount determined under the applicable Regional development charges bylaw, or area-specific development charges bylaw, on:

- a. Day of building permit issuance for:
  - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for a purpose-built rental building prior to January 1, 2020, or
  - ii. Applications submitted for an amendment to a bylaw passed under section 34 of the Planning Act prior to January 1, 2020

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- OR -

b. Day of application for:

- i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for a purpose-built rental building including and after January 1, 2020, or
- ii. Applications submitted for an amendment to a bylaw passed under section 34 of the Planning Act including and after January 1, 2020

For greater clarity, if clause (b(i) or b(ii)) does not apply to a purpose-built rental building that is seeking to defer development charges including and after January 1, 2020, the development charges rate is determined on the day the development charges are payable in accordance with section 26 of the Act.

~~For greater clarity, when a Community Benefits Charges bylaw has been adopted and is in effect, the Community Benefits Charges rate will be set on the day that the building permit is issued for the construction of the purpose-built rental building by the local municipality and shall be capped based on the prescribed percentage at the Valuation Date.~~

#### **4. Development Charges Payable**

The amount of the development charges payable to the Region, as required under the Act, will be based on the rates determined under Term '3' of this policy multiplied by the number of dwelling units, which will be determined on the day that the developer enters into a development charges deferral agreement with the Region.

~~For greater clarity, when a Community Benefits Charges bylaw has been adopted and is in effect, the Community Benefits Charges payable shall be set on the day that the building permit is issued for the construction of the purpose-built rental building by the local municipality and shall be capped based on the prescribed percentage at the Valuation Date.~~

#### **5. Interest Waiver**

All interest will be calculated using the development charges payable in Term '4' of this policy. The period for the interest calculation will begin on the date of issuance of the building permit for the proposed structure by the local municipality and continue until the date upon which the development charges are fully paid.

All deferred development charges will bear interest at the prime commercial lending rate charged by an agreed upon 'Schedule I' commercial bank on demand loans in

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Canadian funds to its most creditworthy customers, plus two per cent per annum. All interest will accrue and be compounded.

The Region will forgive all amounts due and owing on account of interest, provided that the development charges are paid in full to the Region at the time required (within 15 business days immediately following notification of a trigger event as defined in Term '2' of this policy).

In the event unpaid development charges are added to the tax roll (Term '8'), interest will continue to accrue and be compounded until all outstanding charges are fully paid.

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

## **6. Restrictive Covenant**

A 20-year change-of-use covenant will be registered on the title stipulating that the property will be developed and entirely operated as a rental building for a period expiring 20 years from the date that an occupancy permit is issued for the purpose-built rental building.

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

## **7. Local Participation**

The Region will only enter into a development charges deferral agreement if the local municipality has provided a similar, if not better deferral, or other incentives, for the proposed development.

It will be up to the Commissioner of Finance and/or the Chief Administrative Officer, in consultation with the Chief Planner, to decide what constitutes "similar, if not better", but this may be determined by looking at:

- Whether there is a prescribed timeframe for the deferral, and what that is
- Whether interest is waived for any deferral
- Other incentives that may be provided, be them financial or otherwise

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

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## 8. Unpaid Development Charges

If any development charges (including any interest) are unpaid within 15 business days immediately following notification of a trigger event identified in Term '2' of this policy, or at the end of the development charges deferral timeframe when payment has not been made, those development charges (including interest) will be added to the tax roll and collected in the same manner as taxes (in accordance with section 32 of the Act).

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

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

## 9. Security

A form of security will be taken and registered against the title to the land at the execution of the development charges deferral agreement with the Region. The Region's security interest will always be, at minimum, *pari passu*, or of equal footing, to that of the local municipality offering a similar, if not better, deferral of development charges.

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

## 10. Other Agreements Required

To take advantage of this policy, the developer must enter into a development charges deferral agreement with the Region.

In addition, the developer will enter into other agreements as required by the Regional Solicitor. Those include, but are not limited to:

- Charge
- Assignment of Rents
- Restrictive Covenant
- *Pari Passu* Agreement
- General Security Agreement

- 
- Other agreement(s) as deemed necessary

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

## **11. Legal Fees**

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

## **12. Mixed-Use Developments**

For greater clarity, this policy does not apply to the non-residential development charges due for any mixed-use development, the residential portion of which is a purpose-built rental building.

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

## **13. Non-Applicability – Development Charges Deferral for Affordable, Purpose-Built Rental Buildings**

For greater clarity, any purpose-built rental building that avails itself of the deferral under this policy is not also eligible for the Region's Development Charges Deferral for Affordable, Purpose-Built Rental Buildings.

## **14. Section 26.1 of the Act**

For greater clarity, any purpose-built rental building to which section 26.1 applies and that opts to pay development charges in instalments in accordance with section 26.1 of the Act, will not be entitled to also avail itself of the deferral under this policy.

## ~~**15. One (1) per cent exemption, Ontario Regulation 82/98**~~

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

## **16.15. Effective Date**

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

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## Responsibilities

### **Chief Administrative Officer, York Region**

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

### **Commissioner of Finance and Regional Treasurer, Finance**

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

### **Regional Solicitor, Legal and Court Services**

- Draft and prepare for execution deferral agreement between Region and all parties
- Draft and prepare for execution any additional agreements required including a pari passu agreement
- Registration of restrictive covenant
- Registration of security on title

### **Chief Planner, Planning and Economic Development, Corporate Services**

- Responsibilities as identified under the Terms of this policy

### **Director, Treasury Office, Finance**

- Administer the deferral policy, including assisting stakeholders in determining if they qualify for the policy, the development charges rates to be applied, and the development charges and interest payable
- Enforce the deferral policy
- Collect all development charges when due
- ~~• Collect all Community Benefits Charges when due (when in effect)~~
- Monitor timing of payment to ensure compliance with Term '5' of the policy

- 
- Notify, through the Regional Treasurer, the Treasurer of the local municipality if development charges are not paid/received within the prescribed timeframe and to have said charges added to the tax roll
  - Undertake any additional administrative obligations as determined through the agreements
  - Maintain copies of all executed deferral agreements and other agreements as required

## Compliance

Immediately upon the occurrence of any of the trigger events identified in Term '2' of this policy, the **Director, Treasury Office** will notify the owner of the property on the tax roll that development charges are due within 15 business days, the timing of which will begin with the mailing, by registered mail, of notice.

The **Director, Treasury Office** will also monitor the payment of the development charges due ~~(and Community Benefits Charges, when in effect) in order~~ to ensure interest is only forgiven (Term '5' of the policy) when the development charges are paid in full to the Region within 15 business days immediately following notification of a trigger event.

## Reference

### Legislative and other authorities

- [Bill 108, More Homes, More Choice Act, 2019](#)
- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 82/98](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)

### Appendices

- [Council Report, Private Market Rental Development Charges Deferral Site Specific Pilot Project in the Town of Newmarket, November 21, 2013](#)
- [Council Report, 2017 Development Charge Bylaw Directions, November 17, 2016](#)

- 
- [Council Report, 2017 Development Charge Background Study and Bylaw, May 25, 2017](#)
  - [Council Report, Purpose-Built Rental Housing Incentives, October 17, 2019](#)
  - Council Report, 2022 Development Charges Bylaw: Policy Directions, November 25, 2021 **[Hyperlink to be added]**
  - [The Regional Municipality of York 2017 Development Charge Background Study – FINAL – May 18, 2017](#)

## Contact

Director, Treasury Office, Finance, at extension 71644

## Approval

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

#12583306

Accessible formats or communication supports are available upon request.

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## **Development Charges Deferral for Office Buildings - REVISED**

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Approved By:

Approved On:

Last Reviewed:           October 17, 2019

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### **Policy Statement**

A policy governing the deferral of Regional development charges and area-specific development charges, for office buildings that are a minimum of four storeys that are above grade.

~~Upon the date a community benefits charges bylaw is adopted by Regional Council and comes into effect, this policy shall include the deferral of the Regional community benefits charges applicable to office buildings.~~

### **Application**

This policy is available for office buildings in York Region subject to the terms and conditions as set out in this policy. To be eligible, the building must be a minimum of four storeys that are above grade.

### **Purpose**

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

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

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

## Definitions

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

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

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

**Development Charges:** The Region's development charges, including any area-specific development charges

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

**Letter of Credit:** A form of financial security issued by a financial institution that guarantees payment or performance by one or more counterparties to a beneficiary (the Region). At any time, the beneficiary reserves the right to draw upon the security up to a specified total in the event of default or non-delivery.

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Office: As defined under the Region's Development Charges Bylaw No. 2017-35, as amended by Regional Development Charges Bylaw No. 2018-42, or any successor development charges bylaw

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

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

~~(d)~~(b) that is situated between the top of the floor and the ceiling above the floor, if there is no floor above it

~~Valuation Date: This means, for the purposes of Community Benefits Charges, with respect to land that is the subject of development or redevelopment:~~

~~a) The day before the day the building permit is issued in respect of the development or redevelopment, or~~

~~b) If more than one building permit is required for the development or redevelopment, the day before the day the first permit is issued~~

## Description

### 1. Development Charges Deferral Agreement

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

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

### 2. Duration of Deferral

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

- a. 18 months from date of building permit issuance by the local municipality for:
  - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for an office building prior to January 1, 2020, or

- 
- ii. Applications submitted for an amendment to a by-law passed under section 34 of the Planning Act prior to January 1, 2020
  - b. 18 months from date of the issuance of a permit under the *Building Code Act, 1992* authorizing occupation of the building or the date the building is first occupied for:
    - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for an office building including and after January 1, 2020, or
    - ii. Applications submitted for an amendment to a by-law passed under section 34 of the Planning Act including and after January 1, 2020

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

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

### 3. Development Charges Rates

The development charges rate will be the amount determined under the applicable Regional development charges bylaw, or area-specific development charges bylaw, on:

- a. Day of building permit issuance for:
  - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for an office building prior to January 1, 2020, or
  - ii. Applications submitted for an amendment to a by-law passed under section 34 of the Planning Act prior to January 1, 2020

- OR -

- b. Day of application for:
  - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for an office building including and after January 1, 2020, or

- 
- ii. Applications submitted for an amendment to a by-law passed under section 34 of the Planning Act including and after January 1, 2020

For greater clarity, if clause b(i) or b(ii) does not apply to an office building that is seeking to defer development charges including and after January 1, 2020, the development charges rate is determined on the day the development charges is payable in accordance with section 26 of the Act.

~~For greater clarity, when a Community Benefits Charges bylaw has been adopted and is in effect, the Community Benefits Charges rate will be set on the day that the building permit is issued for the construction of the office building by the local municipality and shall be capped based on the prescribed percentage at the Valuation Date.~~

#### **4. Development Charges Payable**

The amount of the development charges payable to the Region, as required under the Act, will be based on the rates determined under Term '3' of this policy multiplied by the gross floor area of the office building, of which will be determined on the day that the developer(s) enters into a development charges deferral agreement with the Region and provides a letter of credit.

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

#### **5. Security - Letter of Credit**

The submitted letter of credit must:

- be printed on letterhead from the issuing financial institution
- comply with the International Standby Practices (ISP98) or its successor as published by the International Chamber of Commerce
- be denominated in Canadian dollars in an amount requested by the Region
- include an automatic renewal provision where the agreement is to be in place for more than one year
- indicate that the Region will be given 30 days' notice by registered mail if the counterparty does not intend to renew
- refer to a renewal schedule described in the agreement where the value of any letter of credit renewals or extensions are subject to changes from the original letter of credit amount
- conform to the intent of the standard format provided in Attachment A. Any deviation from the standard format will be subject to review by the Region and may be refused for non-compliance

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A letter of guarantee or confirmation may be requested from time to time as evidence of capacity to secure a letter of credit. However, at no time will a letter of guarantee or confirmation serve as an acceptable alternative to a letter of credit. Letters of guarantee or confirmation must indicate that the financial institution is willing to provide a letter of credit in a format and within a time period deemed acceptable to the Region.

For all other details regarding the requirements of the letter of credit, please see the Region's Letter of Credit Policy, as amended, revised, re-enacted or consolidated from time to time.

~~For greater clarity, when a Community Benefits Charges bylaw has been adopted and is in effect, the Community Benefits Charges payable shall be set on the day that the building permit is issued for the construction of the office building by the local municipality and shall be capped based on the prescribed percentage at the Valuation Date.~~

## **6. Interest Waiver**

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

## **7. Mixed-Use Buildings**

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

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

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

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

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

## **8. Effective Date**

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

## **Responsibilities**

### **Chief Administrative Officer, York Region**

- Signing of agreements

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## Commissioner of Finance and Regional Treasurer, Finance

- Signing of agreements

## Director, Treasury Office, Finance

- Administer and enforce the deferral policy, including assisting stakeholders in determining if they qualify for the policy, the development charges rates to be applied, and the development charges payable
- Collect all development charges when due

## Director, Strategy and Transformation, Finance

- Process the draw upon the letter of credit at the point development charges are due (for example, end of deferral period)
- ~~• Process the draw upon the letter of credit at the point Community Benefits Charges are due (when in-effect) (for example, at end of deferral period)~~

## Compliance

The **Director, Strategy and Transformation** will process the draw upon the letter of credit at the point development charges are due (for example, end of deferral period).

## Reference

### Legislative and other authorities

- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 82/98](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)

### Appendices

- Council Report, [Potential Financial Incentives for Office Buildings](#), June 27, 2019
- Council Report, [Large Office Building Development Charge Deferral Pilot Program, October 17, 2019](#)
- Council Report, 2022 Development Charges Bylaw: Policy Directions, November 25, 2021 **[Hyperlink to be added]**
- [Council Report, Letter of Credit Policy, April 18, 2013](#)

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

## Contact

- Director, Treasury Office, Finance at extension 71644

## Approval

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

#10709601

Accessible formats or communication supports are available upon request.

ATTACHMENT A

REGION OF YORK  
STANDARD DOCUMENTATION FOR LETTERS OF CREDIT

*(insert bank letterhead)*

LETTER OF CREDIT No. \_\_\_\_\_

DATE: \_\_\_\_\_

APPLICANT: \_\_\_\_\_

\_\_\_\_\_

**IRREVOCABLE LETTER OF CREDIT**

BENEFICIARY: The Regional Municipality of York  
17250 Yonge Street  
Newmarket, Ontario, Canada  
L3Y 6Z1

We hereby authorize you to draw on \_\_\_\_\_  
*(Bank, Address, Postal Code)*

for account of \_\_\_\_\_  
*(name of Applicant)*

up to an aggregate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_)

available on demand as follows:

Pursuant to the request of our customer, the said \_\_\_\_\_,  
*(name of Applicant)*

we \_\_\_\_\_  
*(name of Bank)*

hereby establish and give to you an Irrevocable Letter of Credit in your favour in the total amount of

\_\_\_\_\_ DOLLARS (\$\_\_\_\_\_ ) CAD

which may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you which demand we will honour without enquiring whether you have a right as between yourself and our said customer to make such demand and without recognizing any claim of our said customer.

Provided, however, that you are to deliver to us at such time as a written demand for payment is made upon us a certificate signed by you agreeing and/or confirming that monies drawn pursuant to this Letter of Credit are to be retained and used to meet obligations in connection with:

---

CONTRACT NO. \_\_\_\_\_  
MINISTRY SUBDIVISION NO: \_\_\_\_\_  
REGION FILE OR APPROVAL NO: \_\_\_\_\_  
SITE LOCATION: \_\_\_\_\_  
DESCRIPTION OF WORKS: \_\_\_\_\_

} (as applicable)

The amount of this Letter of Credit will be reduced from time to time as advised by notice in writing given to us from time to time by you.

This Letter of Credit will expire on \_\_\_\_\_, but will be deemed to be automatically extended without any formal amendment or notice to that effect, from year to year for successive periods of one year each from the present or any future expiration date hereof, unless not less than thirty (30) days prior to the present or any future expiration we will notify you in writing that the bank elects not to renew this Letter of Credit for any such additional period. This notification will be delivered by Registered Mail to the attention of:

Commissioner of Finance & Regional Treasurer  
Regional Municipality of York  
17250 Yonge Street  
4/F, Finance Reception  
Newmarket, Ontario, Canada  
L3Y 6Z1

Upon receipt by you of such notice, you may draw by means of your demand accompanied by your above written certificate.

Partial drawings are permitted.

The drawings under this credit are to state that they are drawn under the

\_\_\_\_\_  
(Name of Bank, Address)  
LETTER OF CREDIT NO. \_\_\_\_\_  
(Number)

This Letter of Credit is subject to the rules set out in *International Standby Practices (ISP98)*, International Chamber of Commerce publication No.590 and engages us in accordance with the terms thereof. This Letter of Credit will also be governed by and construed in accordance with the laws of the Province of Ontario and the applicable laws of Canada except to the extent that such laws are inconsistent with the *International Standby Practices (ISP98)*.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature (For Bank)

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

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Approved By:

Approved On:

Last Reviewed: May 17, 2018

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### **Policy Statement**

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

### **Application**

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

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

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

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

### **Purpose**

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

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This policy will also support the following outcomes:

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

## Definitions

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

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

**Development Charges:** The Region's development charges, including any area-specific development charges

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

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

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

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

**Schedule 'I' Bank:** As referenced in subsection 14(1)(a) of the *Bank Act*, S.C. 1991, c. 46. These are domestic banks and are authorized under the *Bank Act* to accept deposits, which may be eligible for deposit insurance provided by the Canadian Deposit Insurance Corporation

## Description

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## **1. Development Charges Deferral Agreement**

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

## **2. Covenants Included in the Development Charges Deferral Agreement**

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

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

## **3. Duration of the Deferral**

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

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

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

- enclosure of the structure (as defined in this policy)
- sale, or transfer of ownership, of the property unless an assumption agreement is entered into
- any other material default as defined in the agreement(s)

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

#### **4. Development Charges Rates**

The development charges rate will be the amount determined under the applicable Regional development charges bylaw, or area-specific development charges bylaw on:

- a. Day of building permit issuance for:
  - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for an open air motor vehicle storage structure prior to January 1, 2020, or
  - ii. Applications submitted for an amendment to a bylaw passed under section 34 of the Planning Act prior to January 1, 2020

- OR -
- b. Day of application for:
  - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for an open air motor vehicle storage structure including and after January 1, 2020, or
  - ii. Applications submitted for an amendment to a bylaw passed under section 34 of the Planning Act including and after January 1, 2020

For greater clarity, if clause b(i) or b(ii) does not apply to an open air motor vehicle storage structure that is seeking to defer development charges including and after January 1, 2020, the development charges rate is determined on the day the development charges is payable in accordance with section 26 of the Act.

#### **5. Development Charges Payable**

The amount of the development charges payable to the Region as required under the Act, will be based on the rates determined under Term '4' of this policy multiplied by the gross floor area of the open air motor vehicle storage structure, of which will be determined on the day that the developer(s) enters into a development charges deferral agreement with the Region.

#### **6. Interest Waiver**

All interest will be calculated using the development charges payable in Term '5' to this policy. The period for the interest calculation will begin on the date of issuance of the building permit for the proposed structure by the local municipality and continue until the date upon which the development charges are fully paid.

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All deferred development charges will bear interest at the prime commercial lending rate charged by an agreed upon 'Schedule I' commercial bank on demand loans in Canadian funds to its most creditworthy customers plus two per cent per annum. All interest will accrue and be compounded annually.

The Region will forgive all amounts due and owing on account of interest, provided that the development charges are paid in full to the Region at the time required (within 15 business days immediately following notification of a trigger event as defined in Term '3' of this policy).

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

## **7. Unpaid Development Charges**

If any development charges (including any interest) are unpaid within 15 business days immediately following notification of a trigger event identified in Term '3' of this policy, those development charges (including interest) will be added to the tax roll and collected in the same manner as taxes (in accordance with section 32 of the Act).

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

## **8. Redevelopment Credits**

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

## **9. Local Participation**

The Region will only enter into a development charges deferral agreement if the local municipality has provided a similar, if not better, deferral, exemption, or other incentive, for the proposed development.

It will be up to the Commissioner of Finance and/or the Chief Administrative Officer, in consultation with the Chief Planner, to decide what constitutes "similar, if not better", but this may be determined by looking at:

- Whether there is a prescribed timeframe for the deferral
- Whether interest is waived
- Other incentives that may be provided, be them financial or otherwise

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## **10. Security**

A form of security will be taken and may be registered against the title to the land, at the execution of the development charges deferral agreement with the Region. The Region's security interest will always be, at minimum, pari passu, or of equal footing, to that of the local municipality offering a similar, if not better, deferral of development charges.

### **10.11. Other Agreements Required**

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

### **11.12. Legal Fees**

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

## **13. Mixed-Use Buildings and Multiple-Use Buildings**

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

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

### **12.14. Report Back to Council**

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

### **13.15. Effective Date**

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

## **Responsibilities**

### **Chief Administrative Officer, York Region**

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

### **Commissioner of Finance and Regional Treasurer, Finance**

- Responsibilities as identified under the Terms of this policy

- 
- Signing of security agreements

### **Regional Solicitor, Legal and Court Services**

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

### **Director, Treasury Office, Finance**

- Administer and enforce the deferral policy, including assisting stakeholders in determining if they qualify for the policy, the development charges rates to be applied, and the development charges payable

### **Director, Strategy and Transformation, Finance**

- Collect all development charges when due
- Notify, through the Regional Treasurer, to the treasurer of the local municipality if development charges are not paid/received within the prescribed timeframe and to have said charges added to the tax roll
- Undertake any additional administrative obligations as determined through the agreements
- Maintain copies of all executed deferral agreements and other agreements as required

## **Compliance**

Immediately upon the occurrence of any of the trigger events identified in Term '3' of this policy, the **Director, Treasury Office** will notify the owner of the property on the tax roll that development charges are due within 15 business days, the timing of which will begin with the mailing, by registered mail, of notice.

The **Director, Treasury Office** will also monitor the payment of the development charges due to ensure interest is only forgiven (Term '6' of the policy) when the development

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charges are paid in full to the Region within 15 business days immediately following notification of a trigger event.

## Reference

### Legislative and other authorities

- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 82/98](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)

### Appendices

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

## Contact

- Director, Treasury Office, Finance, at extension 71644

## Approval

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

#10716451

Accessible formats or communication supports are available upon request.

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

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Approved By:

Approved On:

Last Reviewed: February 27, 2020

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## Policy Statement

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

## Application

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

- That are eligible for instalment payments under section 26.1 of the *Development Charges Act, 1997*
- Under section 26.2 of the *Development Charges Act, 1997*, where an application has been made for:
  - Approval of development in a site plan control area under subsection 41(4) of the *Planning Act, 1990*, or
  - An amendment to a bylaw passed under section 34 of the *Planning Act, 1990*

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## Purpose

The purpose of this policy is to establish the rules and practices for charging interest, as permitted under sections 26.1 and 26.2 of the *Development Charges Act, 1997*.

This policy will support York Region's ability to build growth-related infrastructure in a way that is fiscally sustainable and will help achieve the following outcomes:

- Good government providing reliable Regional programs and services
- Continued delivery of complete communities in a fiscally sustainable way
- Fair and equitable treatment of all stakeholders involved in delivering housing supply, including residents, businesses, municipalities and developers

## Definitions

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

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

**Development Charges:** The Region's development charges, including any area-specific development charges

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

## Description

### 1. Legislative Framework

#### a) Installment Payments under section 26.1 of the Act

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

- Rental housing development that is not non-profit housing development
- Institutional development
- Non-profit housing development

#### b) Interest on Installment Payments under section 26.1 of the Act

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Subsection 26.1(7) of the Act allows a municipality to charge interest on the instalments from the date the development charges would have been payable, under section 26 of the Act, to the date the instalment is paid, at a rate not exceeding the prescribed maximum interest rate.

c) Development Charge Freeze under section 26.2 of the Act

Under subsection 26.2(1) of the Act, the total amount of a development charge is determined under the Region's Development Charge Bylaw on:

- i) The day an application for an approval of development under subsection 41(4) of the Planning Act was made, or
- ii) If clause (i) does not apply, the day an application for an amendment to a bylaw passed under section 34 of the Planning Act was made.

d) Interest under section 26.2 of the Act

Under subsection 26.2(3) of the Act, a municipality may charge interest on the development charge, at a rate not exceeding the prescribed maximum interest rate, from the date of the application referred to in clause c(i) or c(ii) to the date the development charge is payable.

e) Maximum Interest Rate under sections 26.1 and 26.2

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

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

## **2. Interest Rate Used**

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

## **3. Amendment or Revision to Interest Rates:**

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

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

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#### 4. Interest Rate Publication and Notification

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

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

#### 5. Compounding and Prorating:

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

a) Subsequent Application(s)

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

- The date the subsequent application is made will become the new date under which the total amount of the development charge is determined
- All interest that had accrued prior to the subsequent application will be deemed to be zero
- Interest will be compounded annually and begin to accrue from the date the subsequent application is made

b) Interest under section 26.1

If a development was one of the eligible types of development for the instalment payments under section 26.1 of the Act, the total accrued amount will continue to accrue interest from the date of the issuance of a building permit.

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

#### 6. Transition

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

a) An application under sections 34 or 41(4) of the Planning Act is not required, but:

- Still qualifies for instalment payments under section 26.1 of the Act, and
- Has been issued a building permit for development by a local municipality prior to July 1, 2020

b) An application under subsection 41(4) of the Planning Act is:

- 
- Made after January 1, 2020, and
  - Has been issued a building permit for development by a local municipality prior to July 1, 2020
- c) An application for an amendment to a bylaw passed under section 34 of the Planning Act is:
- Made after January 1, 2020, and
  - Has been issued a building permit for development by a local municipality prior to July 1, 2020

## **7. Grace Period**

Where the local municipality has provided certification and a grace period for the payment of the total accrued amount payable, the Region may provide a grace period matching that of the local municipality, but not to exceed 14 calendar days.

For greater clarity, this grace period, if provided, would only apply to the total accrued amount payable under section 26.2 of the Act.

In the event a grace period is provided by the Region, and the total accrued amount payable is not paid within this time, the new total accrued amount payable will include the number of days in the grace period and no further grace period will be provided.

## **7.8. Effective Date**

Upon approval by Council, this policy will take effect as at January 1, 2020 at 12 a.m. This policy may be repealed and/or modified by Council at any time.

## **Responsibilities**

### **Director, Treasury Office, Finance**

- Administer this policy, including but not limited to:
  - Assisting stakeholders in determining the total amount of the development charge that would be determined under the bylaw and the applicable interest rate that would apply
  - Ensure the total accrued amount is being charged and collected when due
- Work with local municipalities to ensure the policy is administered correctly

### **Director, Strategy and Transformation, Finance**

- Collect all development charges, including interest, when due and payable

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## Director, Community Planning and Development Services, Corporate Services

- Confirm, in consultation with local municipality, that a complete application was made for the purposes of determining the total amount of the development charge

## Compliance

The **Director, Treasury Office** will monitor all development applications, and in consultation with the **local municipality** ensure the correct amount of the development charge is being used.

The **Director, Treasury Office** will ensure that this policy is being administered correctly.

The **Director, Strategy and Transformation**, in consultation with the **Director, Treasury Office** and the **local municipality**, will ensure the correct amount is being used to determine the total development charge collections, and that the correct amount of interest has been received.

## Reference

### Legislative and other authorities

- [Bill 108, More Homes, More Choice Act, 2019](#)
- [Bill 138, Plan to Build Ontario Together Act, 2019](#)
- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 454/19](#)
- [Ontario Regulation 82/98](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)
- [York Region Development Charges Bylaw No. 2017-35](#)
- [York Region Development Charges Bylaw Amendment No. 2018-42](#)

### Appendices

- Council Report, [Potential Development Charge Bylaw Amendment and Interest Policy - Bill 108, More Homes, More Choice Act, 2019](#), February 27, 2020
- Council Report, 2022 Development Charges Bylaw: Policy Directions, November 25, 2021 [**Hyperlink to be added**]

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## Contact

Director, Treasury Office, Finance, at extension 71644

Director, Community Planning, Corporate Services, at extension 71505

## Approval

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

#12777266

Accessible formats or communication supports are available upon request.



## **Development Charges Deferral for Retail Buildings**

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Approved By:

Approved On:

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### **Policy Statement**

A policy governing the deferral of Regional development charges and area-specific development charges for retail buildings.

### **Application**

This policy is available for retail buildings in York Region subject to the terms and conditions as set out in this policy.

### **Purpose**

The purpose of this policy is to establish the rules and practices for deferring development charges on retail buildings.

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

- Encourage 'place-making' through a mix of uses
- Promote live/work
- Support the development and attraction of retail businesses

## Definitions

**Act:** The *Development Charges Act*, 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-specific development charges

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

**Letter of Credit:** A form of financial security issued by a financial institution that guarantees payment or performance by one or more counterparties to a beneficiary (the Region). At any time, the beneficiary reserves the right to draw upon the security up to a specified total in the event of default or non-delivery

**Retail:** As defined under the Region's Development Charges Bylaw No. 2017-35 as amended by Regional Development Charges Bylaw No. 2018-42, or any successor development charges bylaw

## Description

### 1. Development Charges Deferral Agreement

Upon site plan approval and prior to building permit issuance, any developer(s) wishing to defer development charges for a retail building must enter into a development charge deferral agreement with the Region and provide the Region with a letter of credit for the development charges owed.

### 2. Duration of Deferral

The deferral of development charges for retail buildings will be in accordance with the following schedule:

- First anniversary of building permit issuance: one-third drawn from letter of credit
- Second anniversary of building permit issuance: one-third drawn from letter of credit

- Third anniversary of building permit issuance: one-third drawn from letter of credit

For greater clarity, development charge payments are being deducted from the letter of credit through three equal annual payments beginning on the first anniversary of building permit issuance.

### 3. Development Charges Rates

The development charges rate will be the amount determined under the applicable Regional development charges bylaw, or area-specific development charges bylaw, on:

- a. Day of building permit issuance for:
  - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for a retail building prior to January 1, 2020, or
  - ii. Applications submitted for an amendment to a bylaw passed under section 34 of the Planning Act prior to January 1, 2020

- OR -

- b. Day of application for:
  - i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for a retail building including and after January 1, 2020, or
  - ii. Applications submitted for an amendment to a by-law passed under section 34 of the Planning Act including and after January 1, 2020

For greater clarity, if clause b(i) or b(ii) does not apply to a retail 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.

### 4. Development Charges Payable

The amount of the development charges payable to the Region, as required under the Act, will be based on the rates determined under Term '3' of this policy multiplied by the Gross Floor Area of the retail building, of which will be determined on the day that the developer(s) enters into a development charges deferral agreement with the Region-and provides a letter of credit.

Actual monetary value of the development charges will be received via draw upon the letter of credit which will be done in three equal annual installments, beginning on the first anniversary of the building permit issuance, by the local municipality, for the retail building.

## **5. Security - Letter of Credit**

The submitted letter of credit must:

- be printed on letterhead from the issuing financial institution
- comply with the International Standby Practices (ISP98) or its successor as published by the International Chamber of Commerce
- be denominated in Canadian dollars in an amount requested by the Region
- include an automatic renewal provision where the agreement is to be in place for more than one year
- indicate that the Region will be given 30 days' notice by registered mail if the counterparty does not intend to renew
- refer to a renewal schedule described in the agreement where the value of any letter of credit renewals or extensions are subject to changes from the original letter of credit amount
- conform to the intent of the standard format provided in Attachment A. Any deviation from the standard format will be subject to review by the Region and may be refused for non-compliance

A letter of guarantee or confirmation may be requested from time to time as evidence of capacity to secure a letter of credit. However, at no time will a letter of guarantee or confirmation serve as an acceptable alternative to a letter of credit. Letters of guarantee or confirmation must indicate that the financial institution is willing to provide a letter of credit in a format and within a time period deemed acceptable to the Region.

For all other details regarding the requirements of the letter of credit, please see the Region's Letter of Credit Policy, as amended, revised, re-enacted or consolidated from time to time.

## **6. Interest Waiver**

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

## **7. Mixed-Use Buildings**

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

- a. Each component of the structure will be deferred in accordance with the applicable policy:
  - i. If the applicable policy requires a letter of credit, a separate letter of credit will be required, and
  - ii. A separate development charges deferral agreement will be required, or
- b. The entirety of the building may be deferred based on the predominant residential use and in accordance with the applicable residential policy.

## **8. Effective Date**

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

## **Responsibilities**

### **Chief Administrative Officer, York Region**

- Signing of agreements

### **Commissioner of Finance and Regional Treasurer, Finance**

- Signing of agreements

### **Director, Treasury Office, Finance**

- Administer and enforce the deferral policy, including assisting stakeholders in determining if they qualify for the policy, the development charges rates to be applied, and the development charges payable
- Collect all development charges when due

### **Director, Strategy and Transformation, Finance**

- Process the draw upon the letter of credit at the point development charges are due

## **Compliance**

The **Director, Strategy and Transformation** will process the draw upon the letter of credit at the point development charges are due (for example, in three equal annual installments).

## Reference

### Legislative and other authorities

- [Bill 108, More Homes, More Choice Act, 2019](#)
- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 82/98](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)

### Appendices

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

## Contact

- Director, Treasury Office, Finance, at extension 71644

## Approval

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

#10714263

Accessible formats or communication supports are available upon request.

**ATTACHMENT A**

**REGION OF YORK  
STANDARD DOCUMENTATION FOR LETTERS OF CREDIT**

*(insert bank letterhead)*

LETTER OF CREDIT NO. \_\_\_\_\_

DATE: \_\_\_\_\_

APPLICANT: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**IRREVOCABLE LETTER OF CREDIT**

BENEFICIARY: The Regional Municipality of York  
17250 Yonge Street  
Newmarket, Ontario, Canada  
L3Y 6Z1

We hereby authorize you to draw on \_\_\_\_\_  
*(Bank, Address, Postal Code)*

for account of \_\_\_\_\_  
*(name of Applicant)*

up to an aggregate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) available on demand as follows:

Pursuant to the request of our customer, the said \_\_\_\_\_,  
*(name of Applicant)*

we \_\_\_\_\_  
*(name of Bank)*

hereby establish and give to you an Irrevocable Letter of Credit in your favour in the total amount of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_) CAD

which may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you which demand we will honour without enquiring whether you have a right as between yourself and our said customer to make such demand and without recognizing any claim of our said customer.

Provided, however, that you are to deliver to us at such time as a written demand for payment is made upon us a certificate signed by you agreeing and/or confirming that monies drawn pursuant to this Letter of Credit are to be retained and used to meet obligations in connection with:

CONTRACT NO.	_____	} (as applicable)
MINISTRY SUBDIVISION NO:	_____	
REGION FILE OR APPROVAL NO:	_____	
SITE LOCATION:	_____	
DESCRIPTION OF WORKS:	_____	

The amount of this Letter of Credit will be reduced from time to time as advised by notice in writing given to us from time to time by you.

This Letter of Credit will expire on \_\_\_\_\_, but will be deemed to be automatically extended without any formal amendment or notice to that effect, from year to year for successive periods of one year each from the present or any future expiration date hereof, unless not less than thirty (30) days prior to the present or any future expiration we will notify you in writing that the bank elects not to renew this Letter of Credit for any such additional period. This notification will be delivered by Registered Mail to the attention of:

Commissioner of Finance & Regional Treasurer  
Regional Municipality of York  
17250 Yonge Street  
4/F, Finance Reception  
Newmarket, Ontario, Canada  
L3Y 6Z1

Upon receipt by you of such notice, you may draw by means of your demand accompanied by your above written certificate.

Partial drawings are permitted.

The drawings under this credit are to state that they are drawn under the

\_\_\_\_\_  
(Name of Bank, Address)  
LETTER OF CREDIT NO. \_\_\_\_\_  
(Number)

This Letter of Credit is subject to the rules set out in *International Standby Practices (ISP98)*, International Chamber of Commerce publication No.590 and engages us in accordance with the terms thereof. This Letter of Credit will also be governed by and construed in accordance with the laws of the Province of Ontario and the applicable laws of Canada except to the extent that such laws are inconsistent with the *International Standby Practices (ISP98)*.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature (For Bank)

## **Development Charges Deferral for High Rise Residential Buildings**

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Approved By:

Approved On:

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### **Policy Statement**

A policy governing the deferral of Regional development charges and area-specific development charges for high rise residential buildings that are a minimum of four storeys that are above grade.

### **Application**

This policy is available for high rise residential buildings in York Region subject to the terms and conditions as set out in this policy. To be eligible, the building must be a minimum of four storeys that are above grade.

### **Purpose**

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

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

- Encourage 'place-making' through a mix of uses
- Encourage higher density residential built forms
- Promote live/work

## Definitions

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

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

**Development Charges:** The Region's development charges, including any area-specific development charges

**Letter of Credit:** A form of financial security issued by a financial institution that guarantees payment or performance by one or more counterparties to a beneficiary (the Region). At any time, the beneficiary reserves the right to draw upon the security up to a specified total in the event of default or non-delivery

**High Rise Residential:** As defined under the Region's Development Charges Bylaw No. 2017-35 as amended by Regional Development Charges Bylaw No. 2018-42 or any successor development charges bylaw

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

- (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

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

### 2. Duration of Deferral

The deferral of development charges for high rise residential buildings will be for the earlier of:

- 18 months after building permit issuance for the high rise residential building, or
- When the high rise residential condominium is registered

The deferral period will begin the day of building permit issuance by the local municipality.

### 3. Development Charges Rates

The development charges rate will be the amount determined under the applicable Regional development charges bylaw, or area-specific development charges bylaw, on:

- c. Day of building permit issuance for:
  - iii. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for a high rise residential building prior to January 1, 2020, or
  - iv. Applications submitted for an amendment to a bylaw passed under section 34 of the Planning Act prior to January 1, 2020

- OR -

- d. Day of application for:
  - iii. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for a high rise residential building including and after January 1, 2020, or
  - iv. Applications submitted for an amendment to a bylaw passed under section 34 of the Planning Act including and after January 1, 2020

For greater clarity, if clause b(i) or b(ii) does not apply to a high rise residential 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.

### 4. Development Charges Payable

The amount of the development charges payable to the Region, as required under the Act, will be based on the rates determined under Term '3' of this policy multiplied by the number of dwelling units in the high rise residential building, which will be determined on the day that the developer(s) enters into a development charges deferral agreement with the Region and provides a letter of credit. Actual monetary value of the development charges will be received via draw upon the letter of credit.

## **5. Security - Letter of Credit**

The submitted letter of credit must:

- be printed on letterhead from the issuing financial institution
- comply with the International Standby Practices (ISP98) or its successor as published by the International Chamber of Commerce
- be denominated in Canadian dollars in an amount requested by the Region
- include an automatic renewal provision where the agreement is to be in place for more than one year
- indicate that the Region will be given 30 days' notice by registered mail if the counterparty does not intend to renew
- refer to a renewal schedule described in the agreement where the value of any letter of credit renewals or extensions are subject to changes from the original letter of credit amount
- conform to the intent of the standard format provided in Attachment A. Any deviation from the standard format will be subject to review by the Region and may be refused for non-compliance

A letter of guarantee or confirmation may be requested from time to time as evidence of capacity to secure a letter of credit. However, at no time will a letter of guarantee or confirmation serve as an acceptable alternative to a letter of credit. Letters of guarantee or confirmation must indicate that the financial institution is willing to provide a letter of credit in a format and within a time period deemed acceptable to the Region.

For all other details regarding the requirements of the letter of credit, please see the Region's Letter of Credit Policy, as amended, revised, re-enacted or consolidated from time to time.

## **6. Interest Waiver**

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

## **7. Mixed-Use Buildings**

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

- a. Each component of the structure will be deferred in accordance with the applicable policy:
  - i. If the applicable policy requires a letter of credit, a separate letter of credit will be required, and
  - ii. A separate development charges deferral agreement will be required, or
- b. The entirety of the building may be deferred based on the predominant residential use and in accordance with the applicable residential policy.

## **8. Effective Date**

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

# **Responsibilities**

### **Chief Administrative Officer, York Region**

- Signing of agreements

### **Commissioner of Finance and Regional Treasurer, Finance**

- Signing of agreements

### **Director, Treasury Office, Finance**

- Administer and enforce the deferral policy, including assisting stakeholders in determining if they qualify for the policy, the development charges rates to be applied, and the development charges payable
- Collect all development charges when due

### **Director, Strategy and Transformation, Finance**

- Process the draw upon the letter of credit at the point development charges are due (for example, end of deferral period)

# Compliance

The **Director, Strategy and Transformation** will process the draw upon the letter of credit at the point development charges are due (for example, end of deferral period).

# Reference

## Legislative and other authorities

- [Bill 108, More Homes, More Choice Act, 2019](#)
- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 82/98](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)

## Appendices

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

# Contact

- Director, Treasury Office, Finance, at extension 71644

<p><b>Approval</b></p> <p>Council Date:</p> <p>Council Minute Item: <input type="text"/></p>	<p>Committee Date:</p> <p>Committee Minute Item: <input type="text"/></p>
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#10711406

Accessible formats or communication supports are available upon request.

**ATTACHMENT A**

**REGION OF YORK  
STANDARD DOCUMENTATION FOR LETTERS OF CREDIT**

*(insert bank letterhead)*

LETTER OF CREDIT NO. \_\_\_\_\_

DATE: \_\_\_\_\_

APPLICANT: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**IRREVOCABLE LETTER OF CREDIT**

BENEFICIARY: The Regional Municipality of York  
17250 Yonge Street  
Newmarket, Ontario, Canada  
L3Y 6Z1

We hereby authorize you to draw on \_\_\_\_\_  
*(Bank, Address, Postal Code)*

for account of \_\_\_\_\_  
*(name of Applicant)*

up to an aggregate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) available on demand as follows:

Pursuant to the request of our customer, the said \_\_\_\_\_,  
*(name of Applicant)*

we \_\_\_\_\_  
*(name of Bank)*

hereby establish and give to you an Irrevocable Letter of Credit in your favour in the total amount of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_) CAD

which may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you which demand we will honour without enquiring whether you have a right as between yourself and our said customer to make such demand and without recognizing any claim of our said customer.

Provided, however, that you are to deliver to us at such time as a written demand for payment is made upon us a certificate signed by you agreeing and/or confirming that monies drawn pursuant to this Letter of Credit are to be retained and used to meet obligations in connection with:

CONTRACT NO.	_____	} (as applicable)
MINISTRY SUBDIVISION NO:	_____	
REGION FILE OR APPROVAL NO:	_____	
SITE LOCATION:	_____	
DESCRIPTION OF WORKS:	_____	

The amount of this Letter of Credit will be reduced from time to time as advised by notice in writing given to us from time to time by you.

This Letter of Credit will expire on \_\_\_\_\_, but will be deemed to be automatically extended without any formal amendment or notice to that effect, from year to year for successive periods of one year each from the present or any future expiration date hereof, unless not less than thirty (30) days prior to the present or any future expiration we will notify you in writing that the bank elects not to renew this Letter of Credit for any such additional period. This notification will be delivered by Registered Mail to the attention of:

Commissioner of Finance & Regional Treasurer  
Regional Municipality of York  
17250 Yonge Street  
4/F, Finance Reception  
Newmarket, Ontario, Canada  
L3Y 6Z1

Upon receipt by you of such notice, you may draw by means of your demand accompanied by your above written certificate.

Partial drawings are permitted.

The drawings under this credit are to state that they are drawn under the

\_\_\_\_\_  
(Name of Bank, Address)  
LETTER OF CREDIT NO. \_\_\_\_\_  
(Number)

This Letter of Credit is subject to the rules set out in *International Standby Practices (ISP98)*, International Chamber of Commerce publication No.590 and engages us in accordance with the terms thereof. This Letter of Credit will also be governed by and construed in accordance with the laws of the Province of Ontario and the applicable laws of Canada except to the extent that such laws are inconsistent with the *International Standby Practices (ISP98)*.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature (For Bank)