	<i>Development Charge Interest Policy</i>	
	Policy No.:	Implementing Procedure No.:
Approving Authority: Council		Effective Date: June 1, 2023
Approved or Last Reviewed Date:		Next Review Year: 2028
Area(s) this policy applies to: Financial Strategy & Investments, <i>Financial Services</i>		Owner Department: Financial Strategy & Investments, <i>Financial Services</i>
Related Policy(ies): Development Charge Deferral Policy		

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

## 1. Purpose Statement

The purpose of this policy is to establish the rules and practices for charging interest, as permitted under sections 26.1, 26.2, and 26.3 of the *Development Charges Act, 1997*.

## 2. Applicability and Scope Statement

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

## 3. Background

In 2019, the Province introduced through Bill 108, *More Homes, More Choice Act, 2019*, and further amended by Bill 138, *Plan to Build Ontario Together Act, 2019*, amendments to the *Development Charges Act, 1997* which established the rules and practices for charging interest, as permitted under sections 26.1 and 26.2 of the *Development Charges Act, 1997*. In late 2022, the Province passed further amendments to the *Development Charges Act, 1997* through Bill 23, *More Homes Built Faster Act, 2022*, which prescribed a maximum interest rate to be charged under section 26.3 of the Act. This Policy provides a framework for how the City will levy interest on applicable developments in accordance with sections 26.1, 26.2 and 26.3 of the *Development Charges Act, 1997*.

### 1. Legislative Framework

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

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



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- Rental housing development
- Institutional development

The first instalment payment at occupancy is followed by five instalment payments on the anniversary date for total of six payments.

b) Interest on Instalment Payments under section 26.1 of the Act

Subsection 26.1(7) of the Act allows a municipality to charge interest on the instalments from the date the development charges would have been payable under section 26 of the Act, to the date the instalment is paid, at a rate not exceeding the maximum interest rate prescribed in accordance with section 26.3 of the Act.

c) Development Charge Freeze under section 26.2 of the Act

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

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

d) Interest under section 26.2 of the Act

Under subsection 26.2(3) of the Act, a municipality may charge interest on the development charge from the date of the application referred to in clause c(i) or c(ii) to the date the development charge is payable, at a rate not exceeding the maximum interest rate determined in accordance with subsection 26.3 of the Act.

e) Maximum Interest Rate under sections 26.1 and 26.2

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

## 4. Definitions

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

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

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

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


## 5. Policy Statements

### 2. Interest Rate Charged

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

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

- b) The interest rate that shall be charged for each instalment payment under section 26.1 of the Act (i.e. for rental housing and institutional developments), will be determined as follows:
- For the first instalment payment, the maximum interest rate permitted under section 26.3 of the Act as at the date the development charges would have been payable (i.e. building permit issuance by the City);
  - For all other instalment payments, the maximum interest rate permitted under section 26.3 of the Act as at the date of the current instalment payment.
- c) Notwithstanding clause 2(b), at the discretion of the Treasurer, a rate less than the rate prescribed may be applied for payments under section 26.1, for developments that have taken advantage of a City development charge incentive and/or relief, current or future, and have entered into an agreement with the City under section 27 of the Act.

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

In the event that section 26.3 of the Act is repealed, an interest rate of 5% shall be used for all future eligible applications. Applications that had the interest rate determined prior to the repeal of section 26.3, will continue to pay the interest rate as prescribed at the time an application under subsection 26.2(1) of the Act was received by the City. For developments with instalment payments (subsection 26.1(1)), all future unpaid instalments will attract the interest rate of 5%.

### 4. Interest Rate Publication and Notification

Upon Council approval, this policy and the interest rates being used shall be made available on the City's website - <https://www.markham.ca/>.

### 5. Simple Interest and Prorating:

- a) Simple interest will be applied and shall accrue from the date of the applicable application until the date the total accrued amount is fully paid. A 365 day calendar year, shall be used for the purposes of prorating.

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

- The date the subsequent application is made will become the new date under which the total amount of the development charge is determined
- All interest that had accrued prior to the subsequent application shall be deemed to be zero (0)

- b) Interest under section 26.1

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

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

### 6. Grace Period

The City will provide a grace period of 14 calendar days for the payment of the applicable interest, commencing from the date the development charge statement is issued to the applicant. In the event payment is not received within the first 14 calendar days, the City will cancel and reissue the development charge statement to include the additional interest accrued and, provide a further 14 calendar day grace



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period for payment. Where a second grace period has been granted and payment has not been received by the City, the development charge statement will be cancelled and will not be reissued until the applicant has provided satisfactory confirmation to staff of the effective payment date. The reissued statement will include interest calculated to the date of payment.

### 7. Effective Date

Upon approval by Markham Council, this revised policy shall take effect as at June 1<sup>st</sup> 2023 at 12 a.m.

## 6. Roles and Responsibilities

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

### Financial Services Department

- Administration of this policy, including but not limited to:
  - Assisting landowners, developers, builders and other stakeholders in determining the total amount of development charges that would be determined under the City's by-laws and the applicable interest rate that would apply
  - Ensuring that the total accrued amount is being calculated and charged
  - Collection of development charges, inclusive of interest, when due and payable

### Planning and Urban Design Department

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

### Building Standards Department

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