



Report to: General Committee

Date Report Authored: September 27, 2011

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**SUBJECT:** Development Charge Deferral Policy  
**PREPARED BY:** Kevin Ross (Ext. 2126)

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**RECOMMENDATION:**

- 1) That the report entitled “Development Charge Deferral Policy” (the Policy) be received; and,
- 2) That the Policy attached as Appendix “A” be endorsed by Council; and,
- 3) That the Treasurer be delegated authority to approve applications for development charge deferrals in accordance with the Policy; and,
- 4) That the Mayor and Clerk be authorized to enter into Development Charge Deferral Agreements in accordance with the Policy, to the satisfaction of the Treasurer and Town Solicitor; and,
- 5) That Schedule A to By-law 2002-276, as amended, be further amended to establish fees related to Development Charge deferral(s) as follows:
  - i. An application fee of \$1,000 for the review of development charge deferral requests; and,
  - ii. A fee equivalent to 1.0% of the value of the deferral request, to a maximum of \$10,000, payable upon execution of the deferral agreement; and,
  - iii. In instances where staff’s costs to prepare and administer a deferral agreement exceed the fee structure set out above, such fees be separately quantified and invoiced to the applicant; and,
- 6) That the applicable Director be authorized to set future increases annually based on the change in the Consumer Price Index (Toronto All Items September – September) with such increases effective January 1 and rounded to the nearest half dollar; and,
- 7) That notice to the public be provided in accordance with the Town of Markham Procedural By-law 2001-1; and further,
- 8) That staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

The purpose of this report is to seek Council’s approval of a Development Charge (DC) Deferral Policy. The *Development Charges Act, 1997* permits a municipality to enter into an agreement to collect development charges after it is otherwise payable. Such deferrals must, however, be authorized by the municipality in order to be effected.

The proposed Policy relates to the Town portion of development charges only and any applicant who requires a deferral of the Region of York and School Board portion of the development charges will be required to contact these organizations directly.

DC deferrals delay the receipt of revenue which negatively affects cash flows. Embedded in the proposed Policy are measures that limit the Town's financial exposure. These impacts are further evaluated in the financial section of the report.

### **BACKGROUND:**

Development charge deferral requests currently require Council approval as there is no policy in place to govern the assessment and approval of these applications. The rationale for requesting deferrals have varied over the years and are mainly based on developments not being able to attain completion for varying reasons, some of which are outside of the developers/landowners control. The proposed Policy is meant to provide staff with the authority to provide deferrals and enter into the appropriate agreements, based on defined criteria, most of which have been reviewed and approved by Council in previous requests.

Development charges are calculated and collected on land and structures being developed pursuant to the *Development Charges Act, 1997* and Markham's DC by-laws. The collection of development charges occurs at the execution of a subdivision agreement and/or at the issuance of a building permit. For development to proceed, DC's have to be paid in order to secure a building permit. However the *Development Charge Act, 1997*, allows for the deferral of DC's beyond the timeline stipulated in Markham's DC by-laws.

Markham is permitted to enter into deferral agreements pursuant to section 27(1) of the *Development Charges Act, 1997* which states that: "*A municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable*".

While the deferral of development charges is permitted, such deferrals must be authorized by the Town in order to be effected. The implementation of the proposed Policy will streamline the process and ensure the application of specific and consistent principles in the administration of development charge deferrals.

### **OPTIONS/ DISCUSSION:**

The proposed Policy sets out the eligibility criteria to be met in order for a development charge deferral to be authorized by the Town. These criteria are based primarily on the rationale utilized in previously approved development charge deferrals that were recommended by staff and approved by Markham Council. Deferral agreements should be executed prior to development charges becoming due (i.e. prior to subdivision agreement execution or building permit issuance) on a development.

It is recommended that Council delegate approval authority to the Treasurer where developments eligible for deferrals, based on the Policy criteria, fall into the following categories:

1. Affordable and Special Needs Housing
2. Servicing Constraints
3. Multi-phased Development

In addition to the above categories, if there is a development that has a strategic and significant direct economic benefit to Markham, Council may authorize a deferral of the development charges on the recommendation of the Treasurer and CAO.

Development charge deferral requests that meet any one of the eligibility requirements can be approved by the Treasurer on the following terms:

- The deferral request does not exceed \$2 million (at the time of approval).
- The duration of the deferral does not exceed 5 years, or in the case of affordable and special needs housing, the lesser of 20 years or when the residential unit is no longer owned/rented by a purchaser/tenant with an eligible household income.

It is proposed that the above provisions form the basis of a detailed policy regarding Markham's development charge deferral process. The proposed Policy is outlined in Appendix "A", attached to this report.

#### **FINANCIAL CONSIDERATIONS:**

Deferral of development charges is based mainly on the premise that no development will take place on the subject lands within a reasonable timeframe (exception: affordable and special needs housing) and therefore, the requirement for additional infrastructure is delayed. The Town has to be prudent with DC deferrals as it delays the receipt of revenue, thereby negatively affecting cash flows which may necessitate earlier borrowing.

An applicant shall secure the deferred DCs by way of a Letter of Credit in the estimated amount of the outstanding DCs (in a form satisfactory to the Treasurer). The Letter of Credit will be held until such time as the development charges are paid to the satisfaction of the Town.

Staff recommends an administration fee applicable to each deferral request (with the exception of affordable and special needs housing) be charged to recover the costs associated with the Legal and Finance departmental costs incurred relating to the assessment, preparation and administration of the development charge deferral. For the most part, the fee has the same structure as that charged for Development Charge Credit and Reimbursement Agreements and is as follows:

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- i. An application fee of \$1,000 shall be required to review a development charge deferral request;
  - ii. A fee equivalent to 1.0% of the value of the deferral request, to a maximum of \$10,000, shall be applicable; and
  - iii. In instances where Markham's costs to prepare and administer a deferral agreement exceed the fee structure set out above, such fees shall be separately quantified and invoiced to the applicant.

These fees will be credited to an operating account and, similar to other Markham fees, staff recommend that they be adjusted annually by the Toronto All-items Consumer Price Index.

**HUMAN RESOURCES CONSIDERATIONS:**

Not applicable

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

This is consistent with the Town's goal of efficient service delivery.

**BUSINESS UNITS CONSULTED AND AFFECTED:**

The Legal Department has reviewed this report and their comments have been incorporated.

**RECOMMENDED BY:**

24/10/2011

  
X


Joel Lustig  
Treasurer

10/19/2011

  
X

Catherine Conrad  
Town Solicitor

19/10/2011

  
X

Kimberley Kitteringham  
Acting Commissioner, Corporate Services

**ATTACHMENTS:**

[Appendix A: Development Charge Deferral Policy](#)