

## CORPORATE POLICY

**POLICY TITLE:** CITY WIDE DEVELOPMENT CHARGES DEFERRAL

**POLICY NO.:** 12.C.07

<b>Section:</b>	Finance & Budgets		
<b>Effective Date:</b>	April 2, 2020	<b>Date of Last Review:</b>	August 28, 2023
<b>Approval Authority:</b> Council	<b>Policy Owner:</b> DCM, Corporate Services, City Treasurer & Chief Financial Officer		

<b>POLICY STATEMENT</b>
A policy governing the deferral of City-wide development charges in support of specific types of development.
<b>PURPOSE</b>
A policy setting out the qualifying criteria enabling all qualifying applicants to receive a deferral of the City of Vaughan City-Wide Development Charges.
<b>SCOPE</b>
<p>This policy will apply to all landowners, developers and/or builders who apply to the City of Vaughan for a deferral of development charges applicable to their proposed development. The policy is intended to assist applicants to proceed with their proposed development and also assist in the provision of services that contribute to a strategic goal of the City. An application for approval of a deferral request is required in accordance with this Policy.</p> <p>This policy only applies to City-wide development charges, excludes area specific development charges, and shall not apply to Community Benefits Charges when a Community Benefits Charges By-Law is in effect.</p> <p>This policy applies to all development charge deferral applications received on or after the date that this Policy becomes effective.</p>
<b>LEGISLATIVE REQUIREMENTS</b>
The City is permitted to enter into deferral agreements pursuant to subsection 27(1) of the <i>Development Charges Act</i> , 1997, which states: “a municipality may enter into an

**POLICY TITLE: CITY WIDE DEVELOPMENT CHARGES DEFERRAL**

**POLICY NO.: 12.C.07**

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.”

## **DEFINITIONS**

1. **Act:** *Development Charges Act, 1997, S.O. 1997, c. 27*, as amended, revised re-enacted or consolidated from time to time, and any successor statute.
2. **Bank of Canada Prime Lending Rate:** Also known as the “prime rate”, is the annual interest rate Canada's major banks and financial institutions use to set interest rates for variable loans and lines of credit.
3. **City:** The Corporation of The City of Vaughan.
4. **Community Benefits Charges:** The City's Community Benefits Charges, established by a Community Benefits Charges By-law pursuant to 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.
5. **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 substantially increasing the size or usability thereof and includes redevelopment.
6. **Development Charges (DC):** A charge imposed against land in the City pursuant to the Development Charges By-law.
7. **DCM/CFO:** Deputy City Manager of Corporate Services, City Treasurer and Chief Financial Officer.
8. **Land Titles Act:** *Land Titles Act, R.S.O. 1990, C. L.5*, as amended.
9. **Planning Act:** *Planning Act, R.S.O. 1990, c. P.13*, as amended.
10. **Region:** The Regional Municipality of York.

## **POLICY**

### **1. Qualifying Criteria to Determine Eligibility for Deferral of City-Wide DCs**

1.1 In order to qualify for a deferral of City-Wide development charges, the applicant shall meet all of the following criteria to the City's satisfaction:

- (a) The applicant must be a non-profit organization who either (i) owns the subject lands; or (ii) is a tenant leasing the subject lands from a landowner who has consented to the registration of the deferral agreement against title to the subject lands and agrees to pay the deferred amount, if and when required;
- (b) The applicant must obtain all consents that are deemed necessary by the City, to the City's satisfaction;
- (c) The applicant must comply with all conditions and receive all approvals that are required to facilitate the development on the subject lands, including compliance with all *Planning Act* requirements.
- (d) The facilities on the subject lands must provide a public service or a use of similar quality and scope that would otherwise be provided by the City, the Region or any local board thereof to the satisfaction of the City and/or Region. Further, such service being provided on the subject lands must be available to the general public;
- (e) The applicant is registered and in good standing as a charity with the Canada Revenue Agency;
- (f) The applicant is registered and in good standing with appropriate Province of Ontario Ministries, as applicable and where required;
- (g) The applicant must satisfy the pre-screening criteria set out in section 3 of this Policy; and
- (h) The applicant must satisfy any other and further conditions imposed by the DCM/CFO in respect of the deferral authorization.

1.2 Notwithstanding the above noted eligibility criteria, a deferral request may be refused by the DCM/CFO if the net DC reserve balance is in a deficit or is at least 20% below forecasted levels.

1.3 Irrespective of the basis on which previous deferral approvals were granted, all future deferral requests and approvals made after the effective date of this policy must conform to this Policy, as amended or superseded.

## **2. Terms of the Deferral**

2.1 Applicants who meet the eligibility criteria set out in section 1 of this Policy may be approved by the DCM/CFO subject to the following conditions:

- (a) The deferral request shall not exceed \$2 million;
- (b) The duration of the deferral shall not exceed 5 years (60 months) and will not be subject to a renewal or extension; and,
- (c) Only the Gross Floor Area identified as a City or Regional service shall be eligible for deferral.

2.2. In circumstances where a qualifying development may proceed, at least in part, on the land for which a deferral is being requested, the applicant may be required to make interim, regular payments towards outstanding (deferred)

DCs. The amount and frequency of interim payments will be determined by the DCM/CFO prior to the issuance of a building permit but will typically be made on an annual basis.

2.3. A DC deferral agreement pursuant to subsection 27(1) of the Act will be executed between the City and the applicant, detailing the duration of and interim payments (if any) due over the deferral period and any other conditions or terms required by the DCM/CFO.

### **3. Pre-Screening of Deferral Applications**

3.1 The applicant shall provide a written request to the Director of Financial Planning and Development Finance, a minimum of 60 days prior to the issuance of a building permit, for the partial or full deferral of City-Wide DCs. Such written request shall include the following pre-screen items:

- (a) Justification as to why the deferral is being requested;
- (b) Evidence of compliance with the eligibility criteria set out in section 1 of this Policy;
- (c) Submission of the application fee pursuant to the City's Fees and Charges By-Law, as amended or superseded;
- (d) Drawing of each level within the building, including the Gross Floor Area;
- (e) Explanation of proposed building uses;
- (f) Proof of registration and good standing as a charity with the Canada Revenue Agency; and,
- (g) Proof of registration and good standing with appropriate with Province of Ontario Ministries, where required.

3.2 Upon satisfactory submission of the above-noted written request for deferral and pre-screen items, if the development is deemed eligible for the City-Wide DC deferral, Financial Planning and Development Finance staff will determine the DC deferral amount. Where a facility has shared uses (more than one use), the common areas within the facility will be prorated among the proposed uses.

3.3 In the event that the applicant is not satisfied with the result of their deferral request, the applicant may appear before Council and appeal staff's decision through a deputation. Council will give the applicant an opportunity to make representation why the deferral request should be considered. At such time, Council may either dismiss or confirm the deferral request. Determination of strategic and significant direct economic benefit from the DC deferral is at the discretion of Council. Council's decision is final and binding.

**POLICY TITLE: CITY WIDE DEVELOPMENT CHARGES DEFERRAL**

**POLICY NO.: 12.C.07**

#### **4. Development Charges Deferral Agreement**

4.1 Any qualifying applicant must enter into a DC deferral agreement with the City pursuant to subsection 27(1) of the Act. With respect to the timing of execution, such agreement may only be entered into:

- (a) Upon submission of a complete site plan application or zoning by-law amendment application, as determined by the City, in respect of the development; and
- (b) Provided that the applicant can immediately upon execution of the agreement attain building permit issuance by the City.

4.2 In the event that a building permit is ready to be issued for an applicant that qualifies for a deferral and the deferral agreement is not executed and registered, the applicant is required to pay all DCs owing in full. Once the deferral agreement is executed and registered and subject to the terms of the deferral set out in section 5 of this policy, the City will refund the agreed upon deferral amount to the applicant, without interest.

#### **5. Duration of the Deferral**

5.1 City-Wide DCs are deferred for a maximum of five years from the date that the building permit is issued by the City with respect to the development.

5.2 City-wide DCs shall be payable prior to the timeframe indicated in the DC deferral Agreement should any of the following trigger events occur:

- (a) Change of use from the use approved for the deferral;
- (b) Non-profit organization no longer in good standing;
- (c) Sale, or transfer of ownership of the property, unless an assignment and assumption agreement is entered into; or,
- (d) Any other material default as defined in the DC deferral agreement.

5.3 Applicants will be given notice of the requirement of payment and will be given 15 days to provide payment in the form of certified cheque to the City.

#### **6. Annual Evidence of Good Standing and No Change of Use**

6.1 Each applicant who has executed a DC deferral agreement must annually no later than September 30 of each year after the signing of the DC deferral agreement provide the City (Financial Planning and Development Finance Department) evidence that:

- (a) there has been no change of use; and

**POLICY TITLE: CITY WIDE DEVELOPMENT CHARGES DEFERRAL**

**POLICY NO.: 12.C.07**

(b) the applicant continues to be a non-profit organization in good standing with the Canada Revenue Agency and with the respective Province of Ontario Ministries.

6.2 City staff will verify such evidence provided. If a change in use occurs that causes the development to no longer qualify for DC deferral pursuant to this Policy, the deferred DCs shall become due and payable in full. Notification to the owner shall occur immediately after the trigger event and the applicant shall be provided 15 days, from the date of mailing of the notice by registered mail.

## **7. Development Charges Rates**

7.1 The City development charges rate shall be the amount determined under the applicable City-Wide development charges by-law in accordance with section 26.2 of the Act on the date that an application is deemed complete.

7.2 If the development is subject to section 26.2 of the Act, interest will be collected in accordance with section 26.3 of the Act, and the City's "DC Interest Policy Under Sections 26.1, 26.2, and 26.3 of the Development Charges Act".

7.3 If sections 6.1 and 6.2 of this policy do not apply, the development charges rate is determined on the day the City-wide development charge is payable in accordance with section 26 of the Act.

## **8. Development Charges Payable**

The amount of the City-wide DCs payable to the City, as required under the Act, shall be based on the rates determined under Section 7 of this policy, of which shall be determined on the day that the applicant enters into a Development Charges Deferral Agreement with the City. Applicants will be given notice of the requirement of payment and will be given 15 days to provide payment in the form of certified cheque to the City.

## **9. Interest**

9.1 All deferred DCs shall be payable in accordance with the DC deferral agreement executed with the City and shall bear interest at the Bank of Canada Prime Lending Rate plus two percent. All interest shall be calculated using the development charges calculated at the time of building permit issuance, until the date upon which the development charges have been paid.

9.2 All interest shall accrue and be compounded annually. This rate most closely represents the impact of the cash flow lost as a result of the deferral.

## **10. Fees**

10.1 Fees for each deferral request will be charged to the applicant to account for departmental costs relating to the review, preparation, and administration of the DC deferral agreement. The fee structure is as follows:

- (a) A nonrefundable application fee shall be required to review a DC deferral request.
- (b) A legal fee shall be charged to prepare and execute the legal agreement.
- (c) A finance fee shall be payable upon the execution of the deferral agreement.

10.2 All fees are in accordance with the City's Fees and Charges Bylaw, as may be updated from time to time.

10.3 In instances where staff's costs to prepare and administer a deferral agreement exceed the fee structure above, such fees shall be separately quantified and invoiced to the applicant. The owner also agrees to pay all costs and expenses in connection with legal costs incurred by the City in the event that it takes any legal action in response to any event of default, or as it may otherwise take to enforce the City's rights under this Agreement.

## **11. Non-Applicability**

Any development to which section 26.1 applies (upon the date that the section is proclaimed) and that opts to pay City-Wide development charges in installment in accordance with section 26.1 of the Act, shall not be entitled to also avail itself of the deferral under this policy.

## **12. Roles and Responsibilities**

### **Chief Financial Officer and City Treasurer**

- a. Maintains administrative authority and responsibility for the City-Wide Development Charges Deferral Policy; and,
- b. Approves department operating procedures and processes under this policy.

### **Director of Financial Planning and Development Finance**

- a. Responsible for the administration of this policy, including assisting stakeholders in determining if they qualify for the policy, the City-wide development charges rates to be applied, and the City-wide development charges payable.

**POLICY TITLE: CITY WIDE DEVELOPMENT CHARGES DEFERRAL**

**POLICY NO.: 12.C.07**

**Manager, Development Finance**

- a. Responsible for the enforcement of this policy and the collection of all City-wide development charges when due.

**Legal Services**

- a. At the request and discretion of the DCM/CFO, assist in the drafting, review and interpret any Agreements that are required as a part of this policy to protect the legal interests of the City pertaining to the deferral of development charges; and
- b. Registration of security on title.

**Staff involved in the acceptance, evaluation and administration of the Development Charges associated with this policy**

- a. Read and abide by the requirements set out in this Policy;
- b. Process payment at the point City-Wide development charges are due; and
- c. Annually review and monitor existing Deferral Agreements to ensure compliance and to assess if any trigger events identified in Section 5 of this policy have occurred.

**ADMINISTRATION**

*Administered by the Office of the City Clerk.*

<b>Review Schedule:</b>	5 Years If other, specify here	<b>Next Review Date:</b>	August 28, 2028
<b>Related Policy(ies):</b>	12.C.05 – City-Wide Development Charges Deferral for Office Buildings, 12.C.06 – City-Wide Development Charges Deferral for Office Buildings a Minimum of 50,000 sq.ft. on the Highway 7 and Yonge Street Regional Corridor 12.C.17 - DC Interest Policy Under Sections 26.1, 26.2, and 26.3 of the Development Charges Act		
<b>Related By-Law(s):</b>	176-2015 – CIP, 177-2015 – CIP, 083-2018 – Development Charges		
<b>Procedural Document:</b>			

**Revision History**

<b>Date:</b>	<b>Description:</b>
28-Aug-23	Minor administrative revisions; referencing relevant legislation.



**POLICY TITLE: CITY WIDE DEVELOPMENT CHARGES DEFERRAL**

**POLICY NO.: 12.C.07**

Click or tap to enter a date.	
Click or tap to enter a date.	