

Town of Ajax Report



Report To: Council

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Subject: **Development Charge Interest Policy**

Ward(s): All

Date of Meeting: May 19, 2020

Reference: April 20, 2020 - Bill 108: More Homes, More Choice Act – Status Update
May 27, 2019 - Bill 108: More Homes, More Choice Act, 2019 – Town of Ajax Comments

Recommendation:

- 1. That the Report entitled “Development Charge Interest Policy” be received for information.**
- 2. That the Development Charge Interest Policy, included in ATT-1, be approved.**

Background:

Development Charges (DCs) are fees levied on new development to fund the cost of infrastructure needed to accommodate that growth. The specific DC rate for various types of development are determined through a DC Background Study that identifies the capital investment needed to accommodate the expected level of growth. DC rates are indexed annually using the non-residential construction price index published by Statistics Canada to ensure the rate collected keeps pace with construction-related inflation.

As previously reported in the April 20, 2020 Council Report “Bill 108: More Homes More Choice Act – Status Update”, Bill 108 introduced a number of changes to the Development Charges Act, 1997 (DCA). Among these changes are provisions that change the date at which the Development Charges (DC) are calculated as well as provisions that require municipalities to defer collection of Development Charges over a period of 5 to 20 years for rental housing, institutional development (including long-term care homes, retirement homes, universities and colleges, memorial homes, clubhouses or athletic grounds of the Royal Canadian Legion and hospices) and non-profit housing developments.



In the absence of a policy to permit the Town to recover interest costs on deferred payment agreements and early locked-in DC rates, the change in timing of calculation and collection will lead to a shortfall in the DC collected as compared to the cost of the capital infrastructure required.

Discussion:

Bill 108 regulations related to timing of calculation and payment of DCs received Royal Assent on December 10, 2019 and came into effect January 1, 2020. This legislation introduced a number of changes, including shifting the timing of when DCs were determined from building permit issuance to Site Plan or Zoning By-law amendment, shifting the timing of DC collection from building permit issuance to occupancy and for certain eligible developments, allowing deferral of DC payments over a period of five to 20 years.

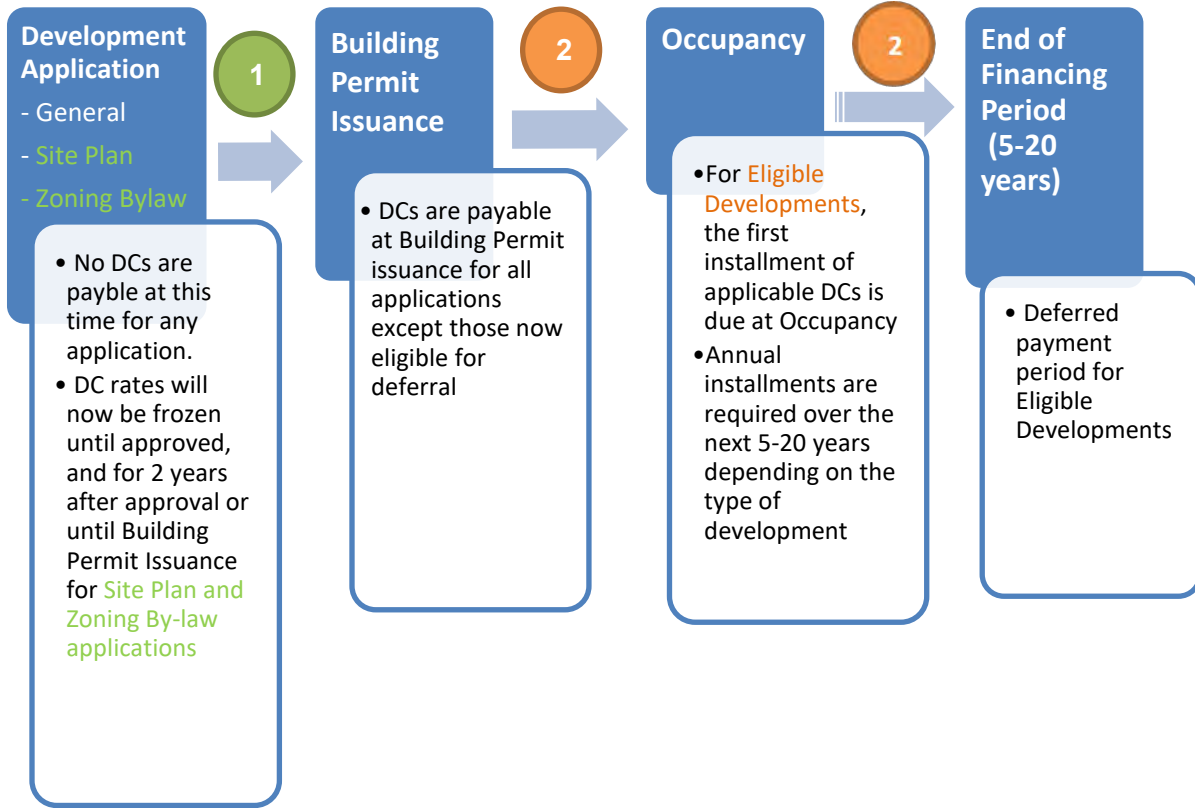
The DCA changes relevant to this report are summarized in Table 1 below:

Table 1 – DC Changes

	Previous DCA Provisions	January 1 2020 Provisions	Financial Impact
<p>DC Calculation Freeze</p> 	<p>All development – calculated at Building Permit issuance</p>	<p>If subject to a Site Plan Application – rate frozen on submission until approved, then 2-year freeze following approval that reverts to rate in effect at Building Permit Issuance</p> <p>If subject to a Zoning By-law application – rate frozen on submission until approved, then 2-year freeze that reverts to rate in effect at Building Permit Issuance</p> <p>For all other development – calculated at Building Permit issuance</p>	<p>Development Charges are indexed annually based on the Non-Residential Building Construction Price Index.</p> <p>Freezing rates for 2 years would mean that the charge does not keep pace with increasing construction costs.</p>
<p>DC Payment Deferrals</p> 	<p>All development – paid at Building Permit issuance</p>	<p>Development eligible for deferral – first installment payable upon Occupancy with 5 to 20 year installment payments</p> <p>All other development – payable at Building Permit issuance</p>	<p>Development Charges are typically due at Building Permit issuance.</p> <p>Deferring payments for periods of 5-20 would transfer the financing cost from the developer to the Town.</p>

The timeline below illustrates these changes and the impact on DC rates:

Figure 1- Development Timeline with Impacts



As can be seen above, in the absence of an interest rate policy, the change in timing of collection will create a discrepancy between the amount of DCs collectable and the cost of the capital infrastructure required as determined by the Development Charge Background Study.

Staff have reviewed the legislation to determine ways that the Town can mitigate the potential negative impacts, both administratively and financially.

Administratively, staff are working together and collaborating with the Region of Durham and other lakeshore municipalities through a working group to create new processes and procedures to address the changes while continuing to ensure uninterrupted service delivery by the Town’s Planning and Building divisions.

Staff have reviewed the potential financial impacts of freezing and deferral provisions. To minimize the extent of potential lost revenue, staff are proposing a new Development Charge Interest Policy (ATT-1) that would allow the Town to charge interest on applications where the DC Deferral and DC freezing provisions of the DCA apply.

DC Payment Deferrals

Subsection 26.2(3) of the DCA permits a municipality to charge interest on a DC from the date the DC is calculated to the date the DC is payable. Similarly, Subsection 26.1(7) of the DCA permits a municipality to charge interest on the instalments required by subsection (3) from the date the DC would have been payable in accordance with section 26 to the date the instalment is paid.

DC Deferral Subsection 26.1(1) of the DCA states that, despite section 26, a DC in respect of any part of a development that consists of a type of development set out in subsection (2) is payable in accordance with section 26.1.

Subsection 26.1(2) identifies the following development types eligible for a DC deferral:

- Rental housing development that is not non-profit housing development (5 years)
- Institutional development (including long-term care homes, retirement homes, universities and colleges, memorial homes, clubhouses or athletic grounds of the Royal Canadian Legion and hospices) (5 years)
- Non-profit housing development (20 years).

The DCA requires the DCs to be paid in equal annual instalments beginning on the earlier of the date of the issuance of a permit under the Building Code Act, 1992 authorizing occupation of the building and the date the building is first occupied, and continuing on,

- (a) the following five (5) anniversaries of that date, in the case of a DC payable in respect of rental housing development that is not non-profit housing development, and institutional development (6 payments in total); or
- (b) the following 20 anniversaries of that date, in the case of a DC in respect of a non-profit housing development (21 payments in total).

There is a lack of definition in the regulations for these types of development and staff will use the following criterion (as set out in O. Reg 454/19) to determine if a deferral arrangement is eligible. The following definitions will be included in the next DC By-law update:

Institutional Development means development of a building or structure intended for use,

- (a) as a long-term care home within the meaning of subsection 2 (1) of the Long-Term Care Homes Act, 2007;
- (b) as a retirement home within the meaning of subsection 2 (1) of the Retirement Homes Act, 2010;
- (c) by any of the following post-secondary institutions for the objects of the institution:
- (d) a university or college in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario,
- (e) a college or university federated or affiliated with a university described in sub-clause (i), or
- (f) an Indigenous Institute prescribed for the purposes of section 6 of the Indigenous Institutes Act, 2017;
 - i. as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion; or
 - ii. as a hospice to provide end of life care.

Non-Profit Housing means a building or structure intended for use as residential premises by,

- a) a corporation without share capital to which the Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing;
- b) a corporation without share capital to which the Canada Not-for-profit Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing; or

- c) a non-profit housing co-operative that is in good standing under the Cooperative Corporations Act.

Rental Housing means a building with four or more dwelling units all of which are intended for use as rented residential premises.

To compensate the Town for the revenue loss associated with time value of money, interest will be charged on the outstanding balance as at each anniversary date, until the DCs are paid in full. The interest will be calculated and charged to the DC balance owing at the Bank of Canada Bank Rate, plus 2%.

Early Payment Agreements will be offered if the owner of a development would prefer to pay the full DC owing at occupancy as permitted under section 27 of the DCA.

Where a party to a Deferral Agreement fails to make a payment in accordance with the repayment schedule or if there is a change in use in the property during the deferral period, all Development Charges become payable immediately. Interest on all amounts in arrears will be calculated by reference to the tax interest rate in effect at the date of non-payment and accrued monthly beginning on the first day of the month following the date of non-payment.

DC Calculation Freeze

Subsection 26.2(1) of the DCA provides that DCs are to be calculated on:

- (a) the day an application for an approval of development in a site plan control area under subsection 41(4) of the Planning Act was made in respect of development that is the subject of the DC,
- (b) if clause (a) above does not apply, the day an application for an amendment to a by-law passed under section 34 of the Planning Act was made in respect of the development that is the subject of the DC;
- (c) if neither clause (a) nor clause (b) applies,
 - i. in the case of a DC in respect of a development to which section 26.1 applies, the day the DC would be payable in accordance with section 26 if section 26.1 did not apply, or
 - ii. in the case of a DC in respect of a development to which section 26.1 does not apply, the day the DC is payable in accordance with section 26.

The DCA allows municipalities to charge and collect interest in these situations, and to that end, the proposed DC Interest Policy includes provisions to mitigate the negative financial impacts that are expected to occur during the freeze periods as well as the deferral periods cited below.

Specific provisions have been included in the DC Interest Policy that address this freeze period. If the period between the application date and building permit issuance is greater than one month, interest will be charged at the Bank of Canada Bank Rate plus 2%.

Financial Implications:

Charging interest on Development Charges owing will help to offset some of the negative financial impacts expected from the changes to the DCA and will help to provide sufficient funding to meet the capital commitments set out in the Town's 2018 DC Background Study.

While the Town is able to create a mechanism to recover some of the financial costs, the Town does not currently have an established fee to recover the cost of additional staff time related to drafting DC deferral agreements, tracking and recovering payments etc. A new user fee may be

proposed during the next annual Fees and Charges Review to compensate for administrative costs associated with administering these agreements. Staff will evaluate the amount of staff time and other resources are required to administer these applications and recommend an appropriate fee as part of the Fees and Charges Review.

The overall fiscal impact of the legislative changes is difficult to quantify as it depends upon the specific timing and type development application.

For illustrative purposes, a simplified calculation of the combined impact of both the DC rate-freeze and deferral provisions are shown below. This example is for a hypothetical long-term care development application with the following assumptions:

- meeting the definition of an institutional development,
- consisting of 150 residential units
- submitted a Site Plan application
- a Town DC rate of \$7,945 per unit at the time of application
- an annual Non-Residential Building Construction Price Index of 5%
- a Town investment return rate of 2.0%, and
- an external borrowing interest rate of 2.5 % (based on the current Bank of Canada Bank rate of 0.5%):

Milestone	Calculations	DC Indexing Lost	Investment Income Lost	Recovered through Interest Policy
Development Application	\$7,945 x 150 = \$1,191,750	-	-	-
Building Permit (assume 2 years later)	\$8,760 x 150 = \$1,314,000	\$122,250	-	\$48,150
Occupancy (assume 1 year later)		-	\$23,840	29,800
Deferral Period (assume 5 years)	Outstanding balance: \$993,120 \$794,490 \$595,860 \$397,230 \$198,600	-	\$19,860 15,890 11,920 7,940 3,970	24,830 19,860 14,900 9,930 4,970
		\$122,250	\$83,420	\$152,440
Net financial impact of Bill 108 provisions (assuming both DC rate-freeze and deferral apply)				\$53,230

This illustration shows how application of the Development Charge Interest Rate policy mitigates the negative financial impacts to the Town while supporting the overall objectives of Bill 108 to provide preferential provisions to development applications and advance the housing supply objectives of the Provincial government.

As the provisions for DC rate-freezes and deferrals are new to DC framework, the recommendations included in the new Development Charge Interest policy may need to be updated from time to time as the policy is applied in practice and new information becomes available. Staff also intend to review the policy when the next DC Background Study update is undertaken and will bring forward policy updates and revisions, if required, at that time.

Communication Issues:

The interest rate will be published on the Town’s website and updated within 5 business days of any change.

Relationship to the Strategic Plan:

This report aligns with:
Focus Area: Investing in our Community
Goal 2: Encouraging and Supporting Strategic Land Use Development

Conclusion:

While the changes to the DCA may create financial and administrative costs to the Town, the legislation also provides a mechanism to recover some of these costs. The proposed policy will help the Town to mitigate the potential negative impacts and ensure that the new deferral and freezing provisions promote development in our community without placing undue financial burdens on our existing taxpayers.

Attachments:

ATT-1: COR-145 – Development Charge Interest Policy

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Submitted by:

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Approved by:

Shane Baker, Chief Administrative Officer