

## CORPORATE POLICY

**POLICY TITLE:** CITY-WIDE DEVELOPMENT CHARGES DEFERRAL FOR OFFICE BUILDINGS

**POLICY NO.:** 12.C.05

<b>Section:</b>	Finance & Budgets		
<b>Effective Date:</b>	January 28, 2020	<b>Date of Last Review:</b>	Click or tap to enter a date.
<b>Approval Authority:</b>	<b>Policy Owner:</b>		
Council	DCM, Corporate Services & CFO		

### POLICY STATEMENT

A Policy governing the deferral of City-Wide Development Charges for Office Buildings that are a minimum of four (4) storey's, above grade.

### PURPOSE

To incentivize large office developments within the City of Vaughan by encouraging a local business climate that attracts office development investment, businesses, and employment opportunities and to strengthen the Economic Prosperity, Investment and Social Capital strategic priority of Council.

### SCOPE

Available to office buildings in the City of Vaughan subject to the terms and conditions as set out in this policy. In order to be eligible, the development must be a minimum of four (4) storey's, above grade.

This deferral 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 has been adopted and is in effect.

### LEGISLATIVE REQUIREMENTS

The City is permitted to enter into deferral agreements pursuant to section 27(1) of the *Development Charges Act, 1997* which states: *"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."*

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This policy was prepared in accordance with the Development Charges Act, 1997 as amended by Bill 108 *More Homes, More Choice Act, 2019*.

## **DEFINITIONS**

1. **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.
2. **City:** The Corporation of the City of Vaughan.
3. **Community Benefits Charge:** The City of Vaughan's Community Benefits Charges, established by a Community Benefits Charge By-law, 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.
4. **Community Improvement Plan (CIP):** Community Improvement Plan as defined in Section 28(1) of the *Planning Act*.
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. **Gross Floor Area:** As under the City's Development Charges By-law No. 083-2018 or any successor development charges by-law. Gross Floor Area means, in the case of a non-residential building or structure, or the non-residential portion of a mixed-use building or structure, the aggregate of the areas of each floor, whether above or below grade, measured between the exterior faces of the exterior walls of the building or structure, or from the centre line of a common wall separating a non-residential and a residential use, and:
  - 6.1. includes the floor area of a mezzanine and the space occupied by interior walls and partitions; and
  - 6.2. excludes in the case of a building or structure containing an atrium, the sum of the areas of the atrium at the level of each floor surrounding the atrium above the floor level of the atrium; and
  - 6.3. excludes the area of any self-contained structural shelf and rack storage facility approved by the Building Materials Evaluation Commission; and
  - 6.4. includes any part of a building or structure above or below grade used as a commercial parking garage; and
  - 6.5. for the purposes of this definition, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure.

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- 7. 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 City). At any time, the beneficiary reserves the right to draw upon the security up to a specified total in the event of default on contractual obligations.
- 8. Office Building:** The use of a building or a structure or part of a building or a structure in which one or more persons are employed in the administration, direction or management of a business, agency, brokerage or organization, or by professionally qualified persons and their support staff, and shall include but not be limited to an office of a regulated health professional, lawyer, dentist, architect, engineer, stock broker, accountant, real estate or insurance agency, veterinarian or a similar professional person's office but shall not include a veterinary clinic.
- 9. Storey:** As under the City's Development Charges By-law No. 083-2018 or any successor development charges by-law. A storey means the portion of a building other than the cellar or unfinished attic which lies between the surface of the floor and the surface of the next floor above, and if there is no floor above it, then the surface next above it, provided its height is not less than 2.3 metres.
- 10. Valuation Date:** For the purpose of the Community Benefits Charges, with respect to land that is the subject of development or redevelopment:
- 10.1. The day before the day the building permit is issued in respect of the development or redevelopment; or,
- 10.2. If more than one building permit is required for the development or redevelopment.

## **POLICY**

### **1. Terms of the Deferral Policy**

Upon site plan approval and prior to building permit issuance, any developer/applicant wishing to defer City-wide development charges for office buildings that are a minimum of four (4) storey's, above grade, must provide the City with a Letter of Credit for the development charges owed.

### **2. Letter of Credit**

The submitted Letter of Credit must adhere to the formatting described in Appendix A of the City's Letter of Credit policy (12.C.04).

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 shall 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

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institution is willing to provide a Letter of Credit in the required format and within the time period deemed acceptable by the City.

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

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

Applicant to 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 the City of Vaughan City-Wide DCs;

The Director of Financial Planning and Development Finance will require the following in order to pre-screen and process the request:

- 3.1. evidence of compliance with eligibility criteria;
- 3.2. an application fee;
- 3.3. drawing of each level within the building, including the gross floor area; and
- 3.4. proposed building uses.

If the development is deemed eligible for the City-Wide DC deferral, Financial Planning and Development Finance staff will determine the deferral amount.

**4. Development Charges Deferral Agreement**

Any developer/applicant wishing to defer development charges for an office building that is a minimum of four (4) storeys must enter into a Development Charges Deferral Agreement with the City.

The developer/applicant shall only qualify to enter into a Development Charges Deferral Agreement if they have submitted a complete site plan application or zoning by-law amendment application as determined by the City, for the construction of the office building.

A Development Charges Deferral Agreement shall only be executed by the City provided that the developer/applicant can immediately upon execution of the agreement attain building permit issuance by the City.

**5. Duration of the Deferral**

- 5.1. Where an application is 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 section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* being proclaimed, or for an office building for which an application for approval of a development in a site plan control area under subsection 41 (4)

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of the *Planning Act* does not apply but which has submitted an application for an amendment to a by-law passed under section 34 of the *Planning Act* prior to section 8 of Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* being proclaimed; the deferral period shall begin the day the building permit is issued by the City.

City-Wide development charges are therefore deferred until eighteen (18) months after the date that the building permit is issued by the City.

5.2. Where an application is submitted for approval of a Development in a site plan control area under subsection 41 (4) of the *Planning Act* for an office building after section 8 Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* being proclaimed, or for an office building for which an application for an approval of a development in a site plan control area under subsection 41 (4) of the *Planning Act* does not apply, but has submitted an application for an amendment to a by-law passed under section 34 of the *Planning Act* after section 8 Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019* being proclaimed; the deferral period shall begin on 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 that the building is first occupied.

If the occupation of the building is not authorized by a permit under the *Building Code Act, 1992* the developer/applicant must notify the City within five (5) business days of the building first being occupied, whereupon the deferral period will begin.

City-wide development charges are deferred until the date that is eighteen (18) 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.

## **6. Development Charges Rates**

The City development charges rate, shall be the amount determined under the applicable City-wide development charges by-law on:

6.1. The day that the building permit is issued for the construction of the office building by the City if an application for an approval of development in a site plan control area under subsection 41 (4) of the *Planning Act* or an application for an amendment to a by-law passed under section 34 of the *Planning Act* was submitted prior to the section 8 Schedule 3 of Bill 108, *More Homes, More Choice, 2019* being proclaimed.

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6.2. The 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 the development that is the subject of the City-wide development charges or if an application for an approval of development in a site plan control area under subsection 41 (4) of the *Planning Act* 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 development that is the subject of City-wide development charges if either application was submitted after section 8 Schedule 3 of Bill 108, *More Homes, More Choice, 2019* being proclaimed.

6.3. If p.6.2 does not apply to an office building that is seeking to defer City-Wide development charges after section 8 Schedule 3 of Bill 108, *More Homes, More Choice, 2019* has been proclaimed, the development charges rate is determined on the day the City-wide development charge is payable in accordance with section 26 of the Act.

**7. Development Charges Payable**

The amount of the City-wide development charges payable to the City, as required under the Act, shall be based on the rates determined under p.6 “Development Charges Rates” of this policy multiplied by the gross floor area of the office building, of which shall be determined on the day that the developer/applicant enters into a Development Charges Deferral Agreement with the City. Developers/applicants will be given notice of the requirement of payment and will be given ten (10) days to provide payment in the form of certified cheque to the City. If a certified cheque is not received by the City will receive payment via draw upon the Letter of Credit.

**8. Interest Waiver**

No interest shall be charged as the City is in receipt of a Letter of Credit.

**9. Non-Applicability**

Any office building 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.

If any office building that is eligible and opts to pay City-wide development charges in accordance with the VMC Community Improvement Plan By-law 177-2015 and 176-2015, or any successors, as amended, revised, re-enacted or consolidated from time to time, shall not be entitled to also avail itself of the deferral under this policy.

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If any office building that is eligible and opts to pay City-wide development charges in accordance with the Large Office Development Deferral Pilot Program Policy along Highway 7 from Highway 50 to Yonge Street and any subsequent Community Improvement Plan (CIP) for the same area, shall not be entitled to avail itself of the deferral under this policy.

## **10. Fees**

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:

- 10.1. A nonrefundable application fee shall be required to review a DC deferral request.
- 10.2. A legal fee shall be charged to prepare and execute the legal agreement.
- 10.3. A finance fee shall be payable upon the execution of the deferral agreement.

All fees are in accordance with the City's Fees and Charges Bylaw, shall be reviewed annually with all other City fees, and are subject to change.

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. Roles and Responsibilities**

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

- 11.1. Maintains administrative authority and responsibility for the City-Wide Development Charges Deferral Policy for Office Buildings; and
- 11.2. Approves department operating procedures and processes under this policy.

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

- 11.3. 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.

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**Manager, Development Finance**

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

11.5. Process the draw upon the Letter of Credit at the point City-wide development charges are due, if payment is not received in the form of certified cheque (for example, at the end of deferral period).

**Legal Services**

11.6. At the request and discretion of the Chief Financial Officer and City Treasurer, 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.

**Staff involved in the acceptance, evaluation and administration of the Letters of Credit associated with this policy**

11.7. Read and abide by the requirements set out in this Policy; and

11.8. Process the draw upon the Letter of Credit at the point City-Wide development charges are due, if payment is not received in the form of certified cheque (for example, at the end of deferral period).

**ADMINISTRATION**

*Administered by the Office of the City Clerk.*

<b>Review Schedule:</b>	3 Years <small>If other, specify here</small>	<b>Next Review Date:</b>	January 28, 2023
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<b>Related Policy(ies):</b>	12.C.06 – City-Wide Development Charges Deferral for Office Buildings, 12.C.04 – Letter of Credit
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<b>Related By-Law(s):</b>	176-2015 – CIP, 177-2015 – CIP, 083-2018 – Development Charges
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<b>Procedural Document:</b>	
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**Revision History**

<b>Date:</b>	<b>Description:</b>
<small>Click or tap to enter a date.</small>	