

CORPORATE POLICY

POLICY TITLE: CITY WIDE DEVELOPMENT CHARGES DEFERRAL

POLICY NO.: 12.C.07

Section:	Finance & Budgets		
Effective Date:	March 11, 2020	Date of Last Review:	June 27, 2005
Approval Authority: Council	Policy Owner: DCM, Corporate Services & CFO		

POLICY STATEMENT

A policy governing the deferral of City-wide development charges in support of specific types of development.

PURPOSE

A policy setting out the qualifying criteria enabling all qualifying applicants to receive a deferral of the City of Vaughan City-Wide Development Charges.

SCOPE

This policy will apply to all landowners, developers and/or builders who apply to 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.

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 has been adopted and is in effect.

LEGISLATIVE REQUIREMENTS

Vaughan 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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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. **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 Charge:** The City of Vaughan’s Community Benefits Charges, established by a Community Benefits Charges 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.
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, Chief Financial Officer, and Treasurer.
8. **Land Titles Act:** The *Land Titles Act*, R.S.O. 1990, C. L.5, as amended.
9. **Planning Act:** The *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 a Deferral of the City-Wide DCs**
In order to qualify for a deferral of City-Wide development charges, an organization must first meet all of the following general criteria:
 - 1.1. Must be a non-profit organization;
 - 1.2. The lands must be owned by the non-profit organization or are leased lands where the land owner has consented to register the deferral agreement on title and agrees to pay the deferred amount, if required;

- 1.3. That all other consents that are deemed necessary by the City are obtained;
- 1.4. The facilities provide a public service or use of similar quality and scope that would otherwise be provided by the City of Vaughan or the Regional Municipality of York or any local board thereof to the satisfaction of the City and/or Region;
- 1.5. Registered, in good standing, as a charity with the Canada Revenue Agency; and,
- 1.6. Registered, in good standing, where required, with appropriate Province of Ontario Ministries.

Notwithstanding the aforementioned 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.

The service being provided from the development must be available to the general public. Applicants requesting a deferral of DCs must comply with all the conditions that are determined as necessary for development (e.g. *Planning Act* etc.). They must also agree to any other conditions imposed by the DCM/CFO on the deferral authorization and enter into an agreement with the City.

Irrespective of the basis on which previous deferral approvals were granted, all future deferral requests and approvals must conform to this Policy. The requirements outlined in this document are applicable to all DC deferral applications received on or after the date that this Policy becomes effective.

2. Terms of the Deferral

Upon site plan approval and prior to building permit issuance, any developer/applicant wishing to defer City-wide development charges for developments that meet the qualifying criteria and have been pre-screened by City staff, must enter into a DC deferral agreement with the City.

2.1. DC deferral requests that meet all of the eligibility requirements may be approved by the DCM/CFO with the following conditions:

- 2.1.1. The deferral request may not exceed a maximum of \$2 million (at the time of approval);
- 2.1.2. The duration of the deferral may not exceed 5 years (60 months); and,
- 2.1.3. Only the Gross Floor Area identified as a City or Regional service will be eligible for deferral.

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2.2. In circumstances where a 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 will be executed detailing the duration and interim payments (if any) due over the deferral period and any other conditions or terms required by the DCM/CFO. The approved deferral of DC's may be set out in other development agreements if appropriate.

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. Why the deferral is requested;

3.2. Evidence of compliance with eligibility criteria;

3.3. An application fee;

3.4. Drawing of each level within the building, including the Gross Floor Area;

3.5. Proposed building uses;

3.6. Proof of registration, in good standing, as a charity with the Canada Revenue Agency; and,

3.7. Proof of registration, in good standing and where required, where appropriate with Province of Ontario Ministries

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

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

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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 deferral is at the discretion of Council. Council's decision is final and binding.

4. Development Charges Deferral Agreement

Any developer/applicant wishing to defer development charges for a qualifying Development under this policy 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 development.

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.

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 signed and/or registered, the applicant is required to pay the DCs amount in full. Once the deferral agreement is signed and registered, the City will refund the agreed to deferred amount to the applicant, without interest.

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 a Development for which an application for the approval of a Development in a site plan control area under subsection 41 (4) 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 a maximum of five (5) years after the date that the building permit is issued by the City.

5.2. Where an application is submitted for approval of Development in a site plan control area under subsection 41 (4) of the *Planning Act* for a Development after section 8 Schedule 3 of Bill 108, *More Homes, More Choice Act, 2019*

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being proclaimed, or for a Development 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 a maximum of five (5) years 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.

City-wide development charges shall be payable prior to the timeframe indicated in the Deferral Agreement should any of the following trigger events occur:

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

Each applicant, that has entered into a deferral, must annually no later than September 30 of each year after the signing of the deferral agreement provide the City of Vaughan – Financial Planning and Development Finance Department evidentiary proof that the non-profit organization remains in good standing with the Canada Revenue Agency and with the respective Province of Ontario Ministries. Financial Planning and Development Finance Staff will verify the information provided and that the use has not changed. If a change in use occurs that is not covered by the deferral policy, the development charges registered on the land title that were deferred become applicable and must be paid in full.

Notification to the owner shall occur immediately after the trigger event. The fifteen (15) days shall begin with the mailing, by registered mail, of notice.

6. Development Charges Rates

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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 Development by the City if an application for an approval of Development in a site plan control are 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.
- 6.2. The application for an approval of a 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 a 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 clause (b) does not apply to the Development 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 Term 6 of this policy, 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 fifteen (15) days to provide payment in the form of certified cheque to the City.

8. Interest

All deferred DCs shall be payable in accordance with the deferral agreement executed with the City and shall bear interest at the Bank of Canada Prime Lending Rate plus 2 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.

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

9. 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:

9.1. A nonrefundable application fee shall be required to review a DC deferral request.

9.2. A legal fee shall be charged to prepare and execute the legal agreement.

9.3. 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.

10. 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.

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; 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,

Legal Services

11.5. 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.

11.6. Registration of security on title.

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

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

11.8. Process payment at the point City-Wide development charges are due.

11.9. Annually review and monitor existing Deferral Agreements to ensure compliance and to assess if any trigger events identified in Term '6' of this policy have occurred.

ADMINISTRATION

Administered by the Office of the City Clerk.

Review Schedule:	3 Years If other, specify here	Next Review Date:	March 11, 2023
Related Policy(ies):	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		
Related By-Law(s):	176-2015 – CIP, 177-2015 – CIP, 083-2018 – Development Charges		
Procedural Document:			
Revision History			
Date:	Description:		
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