



Status: **Final**  
Approved By: **Council**

**The Regional Municipality of York**

**Development Charge Deferral for  
Purpose-Built High Density Rental Buildings**

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**Policy No.: 8253978**

**Original Approval Date: May 25, 2017**

**Policy Last Updated: June 28, 2018**

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**Policy Statement:**

A policy governing the deferral of Regional development charges and area-specific development charges for purpose-built high density rental buildings.

**Application:**

This policy is available for purpose-built high density rental buildings in the Regional Municipality of York subject to the terms and conditions as set out in this policy. For the purposes of this deferral, the development may be registered as a condominium, but it must be operated as a rental property for a period of not less than twenty (20) years.

In order to be eligible, the development must be a minimum of four (4) stories.

**Purpose:**

This policy establishes the pre-conditions, duration, covenants, form of security, and other requirements in order to defer Regional development charges for purpose-built high density rental buildings.

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### Definitions:

**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

**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 increasing the size or changing the use thereof from non-residential to residential or from residential to non-residential and includes redevelopment

**Development Charges:** The Region's Development Charges, including the area-specific wastewater development charge for the Village of Nobleton

**High density:** For the purposes of applying this policy, high density development must consist of a minimum of four (4) stories

**Restrictive Covenant:** A covenant registered on the title of the proposed development requiring it operate as a rental property for a period of not less than twenty (20) years

**Schedule 'I' Bank:** As referenced in section 14(a) of the *Bank Act, 1991* (as at December 31, 2016 or as amended from time to time). These are domestic banks and are authorized under the *Bank Act, 1991* to accept deposits, which may be eligible for deposit insurance provided by the Canadian Deposit Insurance Corporation

### Description:

#### Objectives of the deferral policy

This policy is intended to allow developers of purpose-built high density rental buildings to defer the Regional development charges owed for a period of thirty-six (36) months. Every deferral will require a deferral agreement which may include additional guarantees, obligations and warranties as is required. Additional agreements (as detailed in section G) of the terms of the deferral policy will be required in order to give effect to this policy. The terms of this deferral policy are Council approved and are non-negotiable.

## **Terms of the deferral policy**

### **A. Duration of the deferral**

The deferral of development charges for purpose-built rentals shall be for a period of thirty-six (36) months. The deferral period shall begin the day of building permit issuance by the local municipality.

Development charges are therefore deferred until fifteen (15) days immediately following the date that is thirty-six (36) months after the date that the building permit is issued by the local municipality.

Development charges shall be payable prior to the thirty-six (36) month period should any of the following trigger events occur:

- Change of use from a purpose-built high density rental building
- Material breach of the Restrictive Covenant
- Any material default under the terms of the security or guarantees as stipulated in the agreement(s)
- Any other material default as defined in the agreement(s)

### **B. Development charge rates**

The amount of the Regional Development Charges payable to the Region, as required under the Act, shall be the amount determined under the applicable Region Development Charges Bylaw on the day that the Building Permits are issued for the proposed development by the local municipality.

### **C. Interest waiver**

All deferred Development Charges shall bear interest at the prime commercial lending rate charged by an agreed upon 'Schedule I' commercial bank's on demand loans in Canadian funds to its most creditworthy customers plus two (2) per cent per annum, commencing on the date of issuance of the Building Permit for the proposed development up to the date of payment of the deferred Development Charges, such interest to accrue, compound and be paid at the time of payment of the deferred Development Charges.

The Region shall forgive all amounts due and owing on account of interest, provided that the Regional Development Charges are paid to the Region at the time required

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(before or within fifteen (15) days immediately following the thirty-six (36) month deferral period ending).

### **D. Restrictive covenant**

A twenty (20) year change of use covenant shall be registered on the title stipulating that the property shall be operated as a purpose-built high density rental building for a period expiring twenty (20) years from the date that an occupancy permit is issued for the purpose-built high density rental building.

The burden of the restrictive covenant shall run with the title of the land.

### **E. Form of security**

A form of security will be taken and registered against the title to the property, at the time the development charges would normally be payable. The Region's security interest will always be, at minimum, *pari passu*, or of equal footing, to that of the local municipality offering a similar, if not better, deferral of development charges.

A *pari passu* agreement setting out, but not limited to, the rights, obligations, priorities and covenants shall be required involving all parties involved.

### **F. Local participation**

The Region will only enter into a deferral agreement if the local municipality has provided a similar, if not better deferral for the proposed development.

It shall be up to the Region to decide what constitutes "similar, if not better", but this may be determined by looking at:

- Duration of the agreement
- Total charges/fees deferred

### **G. Agreements required**

In order to take advantage of this policy, the developer must enter into a development charge deferral agreement with the Region and the local municipality (a triparty agreement).

In addition, the developer shall enter into other agreements as required by the Regional Solicitor. Those include, but are not limited to:

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- Restrictive Covenant
- Pari Passu Agreement
- General Security Agreement
- Other agreement(s) as deemed necessary

### **H. Legal fees**

All legal fees of the developer(s) and local municipality shall be borne by those respective parties except that the developer shall be responsible to pay the cost of registering the required agreements on title.

Responsibilities:

### **Regional Solicitor, Legal Services**

- Draft and prepare for execution deferral agreement between Region and all parties
- Draft and prepare for execution any additional agreements required including pari passu agreement
- Registration of restrictive covenant
- Registration of security on title

### **Director, Treasury Office, Finance Department**

- Administration and enforcement of the deferral policy
- Collection of development charges when due
- Notification, through the Regional Treasurer, to the treasurer of the local municipality if development charges are not paid/received within the prescribed timeframe
- Any additional administrative obligations as determined through the agreements

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- Maintain copies of all executed deferral agreements and other agreements as required

Reference(s):

### Legislative and other authorities

- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 82/98](#)
- [Council Report, Private Market Rental Development Charges Deferral Site Specific Pilot Project in the Town of Newmarket, November 21, 2013](#)
- [Council Report, 2017 Development Charge Bylaw Directions, November 17, 2016](#)
- [Council Report, 2017 Development Charge Background Study and Bylaw, May 25, 2017](#)
- [The Regional Municipality of York 2017 Development Charge Background Study – FINAL – May 18, 2017](#)

### Keyword Search

- purpose-built rental deferral,
- development charges,
- deferral high density rental buildings

Contact(s):

- Regional Solicitor, Legal Services
- Director, Treasury Office, Finance Department

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Approval Information:

**Council Approval**

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