



Policy

Policy Name:	City-wide Development Charges Deferral
Policy Owner:	Corporate and Financial Services – Financial Services
Approved by:	Council
Effective Date:	March 27, 2024
Date of Last Revision:	N/A
Review Date:	Reviewed as necessary
Procedure Status:	New policy

Purpose:

A policy setting out the qualifying criteria enabling qualified non-for-profit organizations that provide public service or use of similar services otherwise provided by the City of Richmond Hill, Regional Municipality of York or local board thereof, to receive a deferral of the City of Richmond Hill City-wide Development Charges.

Policy Principles:

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

Scope:

This policy will apply to all landowners, developers and/or builders who apply to Richmond Hill 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 assist in the provision of services that contribute to a strategic goal of the City by providing a strong sense of belonging, by promoting development of services and facilities available to the public, while being fiscally responsible. An application for approval of a deferral request is required in accordance with this Policy.

This policy only applies to City-wide 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.”

This policy was prepared in accordance with the Development Charges Act, 1997 as amended.

Definitions:

For the purpose of this policy the following definitions have been provided:

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.

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.

City: The Corporation of the City of Richmond Hill.

Community Benefits Charges: The City of Richmond Hill'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.

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.

Development Charges (DC): A charge imposed against land in the City pursuant to the Development Charges By-law.

Land Titles Act: *The Land Titles Act, R.S.O. 1990, C. L.5, as amended.*

Planning Act: *The Planning Act, R.S.O. 1990, c. P.13, as amended.*

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 Richmond Hill 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 Director Financial Services and Treasurer if the net DC reserve balance is in a deficit.

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 Director Financial Services and Treasurer 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 Policy:

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 Director Financial Services and Treasurer 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.
- 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 Director Financial Services and Treasurer 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 Director Financial Services and Treasurer. 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 Financial Services and Treasurer, a minimum of 60 days prior to the issuance of a building permit, for the partial or full deferral of the City of Richmond Hill City-Wide DCs;

The Director Financial Services and Treasurer 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, 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 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 January 1, 2020, 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 January 1, 2020; 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 January 1, 2020, 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 January 1, 2020; 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 Richmond Hill – Development Finance Section evidentiary proof that the non-profit organization remains in good standing with the Canada Revenue Agency and with the respective Province of Ontario Ministries. 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. Security

A form of security will be taken and registered against the title to the property, at the execution of the Development Charges Deferral Agreement with the City.

7. Development Charges Rates:

The City-wide development charge 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 January 1, 2020.
- 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 January 1, 2020.
- 6.3 If clause 6.2 does not apply to the Development that is seeking to defer City-wide development charges after January 1, 2020, 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 development charges payable to the City, as required under the Act, shall be based on the rates determined under section 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.

9. 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 1%. 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. This rate most closely represents the impact of the cash flow lost as a result of the deferral.

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. Fees:

Fees for each deferral request will be charged to the applicant to account for departmental costs relating to the review, preparation, execution, registration, and administration of the Development Charges Deferral Agreement; The following is the recommended fee structure:

- 11.1 A non-refundable application fee shall be required to review a development charges deferral request of \$1,200 plus HST; plus,
 - 11.1.1 Shall be payable on submission date of the application for the development charges deferral.
- 11.2 Finance and Legal fees equivalent to 1.0% of the value of the deferral request, for up to a maximum of \$10,000;
 - 11.2.1 Shall be payable upon execution of the deferral agreement.

In instances where costs incurred by the City to prepare, execute, register and administer a deferral agreement exceeds the fee structure set out above, such fees shall be separately quantified and invoiced to the applicant.

The applicant 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.

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.

Roles and Responsibilities:

Financial Services Division

Director Financial Services and Treasurer:

- Maintains administrative authority and responsibility for this policy; and

- Approves department operating procedures and processes under this policy.
- 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.
- Responsible for the enforcement of this policy and the collection of all City-wide development charges when due; and

Legal Services

- At the request and discretion of the 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; and
- Registration of security on title.

Monitoring and Contraventions of the Policy

The Director, Development Planning shall monitor all development applications, to ensure that the development application date is accurate and communicated to Financial Services.

The Director, Financial Services shall ensure that this policy is being administered correctly.

The Director, Financial Services, shall ensure the correct amount of development charges, including interest are collected when due.

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