



# Policy

<b>Policy Name:</b>	<b>City-wide development charges deferral for office buildings</b>
<b>Policy Owner:</b>	Corporate and Financial Services – Financial Services
<b>Approved by:</b>	Council
<b>Effective Date:</b>	March 27, 2024
<b>Date of Last Revision:</b>	N/A
<b>Review Date:</b>	Reviewed as necessary
<b>Procedure Status:</b>	New policy

## Purpose:

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

## Policy Principles:

To incentivize large office developments within the City of Richmond Hill 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 Richmond Hill 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."

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

## Definitions:

For the purpose of this policy the following 6 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.*

**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.

**Community Improvement Plan (CIP):** Community Improvement Plan as defined in Section 28(1) of the *Planning Act, RSO, 1990, c. P. 13, as amended.*

**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.

**Gross Floor Area:** Gross Floor Area means,

- in the case of a residential building or structure or in the case of a mixed-use building or structure with respect to the residential portion thereof, the aggregate of the areas of each floor above grade of a dwelling unit 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 dwelling unit from another dwelling unit or other portion of a building;
- in the case of a non-residential building or structure, or in the case of a mixed-use building or structure with respect to the non-residential portion thereof, 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 use and a residential use, excluding, 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 excluding, in the case of a building containing parking spaces other than a parking structure, the sum of the areas of each floor used, or designated or intended for use for the parking of motor vehicles unless the parking of motor vehicles is the principal use of the building or structure, and, 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 use and non-residential use portions of such mixed-use building or structure but shall not include any common area used exclusively by or for the residential use portion of such mixed-use buildings or structures;

**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.

**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.

**Storey:** 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.

**Valuation Date:** For the purpose of the Community Benefits Charges, with respect to land that is the subject of development or redevelopment:

- The day before the day the building permit is issued in respect of the development or redevelopment; or,
- 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 the City's Acceptable Letters of Credit.

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 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 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:

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

If the development is deemed eligible for the City-wide DC deferral, 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:**

Where an application 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 an office building for which an application for an approval of a development site plan control area under subsection 41 (4) of the Planning Act, does not apply, but which has submitted an application for amendment to a by-law passed under section 34 of the Planning Act January 1, 2020; the deferral period shall begin the day a 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.

Where an application for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for an office building after January 1, 2020, or for an office building for which an application for 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 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 the building is first occupied.

If the occupation of a 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-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 office building by the City if an application for 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 January 1, 2020.
- 6.2. 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 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 the development that is the subject of the City-wide development charges if either application was submitted after January 1, 2020.
- 6.3. If p.6.2 does not apply to an office building 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 charges are 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 section 6 of this policy "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:

All interest shall be calculated using the development charges payable in section 7 “Development Charges Payable” to this policy until the date upon which the City-wide Development charges are fully paid.

All deferred City-wide development charges shall bear interest at the Bank of Canada prime commercial lending rate plus two one (21) per cent per annum. All interest shall accrue.

The time period shall be calculated beginning on the date of the issuance of the building permit for the proposed structure by the City.

The City shall forgive all amounts due and owing on all account of interest, provided that the City-wide development charges are paid in full to the City at the time required (within fifteen (15) business days immediately following notification of a trigger event as defined in section 3 “Duration of the Deferral” of this policy).

In the event that unpaid City-wide development charges are added to the tax roll (section 8 “Unpaid Development Charges” of this policy); interest shall continue to accrue until all outstanding charges are fully paid.

## 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 Large Office Development Deferral Pilot Program Policy along Yonge Street from Highway 7 to Major Mackenzie 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, 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.

Manager, Revenue Billing and Assessment:

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

- 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; 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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