



**Policy Title:** DEVELOPMENT CHARGES INTEREST POLICY

**Effective Date:** April 1, 2021

**Review Date(s):** Upon each Development Charge By-law update

## **Purpose**

The purpose of this policy is to establish the rules and procedures for charging interest, as permitted under sections 26.1 and 26.2 of the Development Charges Act (DCA). This policy will support the Town of Ingersoll's ability to invest and build growth-related infrastructure for an expanding population and employment base in a way that is transparent and fiscally sustainable.

## **Scope**

In December 2019, certain sections of Schedule 3 of Bill 108 More Homes, More Choice Act, 2019 (as amended by Bill 138) were proclaimed and came into force on January 1, 2020 which amended certain sections of the Development Charges Act (DCA).

This Policy applies to development applications that are eligible for a development charge freeze and/or deferral provided in Section 26.1 and Section 26.2 of the DCA, as amended.

## **Policy Statement**

The Council for the Town of Ingersoll is committed to demonstrating financial leadership and sustainability. This policy is to establish a financial risk management framework governing the charging of interest, as permitted under sections 26.1 and 26.2 of the Development Charges Act that provides a transparent process while protecting the Town's financial interests.

## **Definitions**

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 usability thereof according to one or more of the actions referred to in subsection 2(2) of the DCA, and includes redevelopment.
Development Charges Act:	(DCA) The Development Charges Act, 1997, S.O. 1997, c. 27, as amended and all regulations thereto.

Development Charge Deferral:	Ability for qualifying developments to spread DC's over multiple annual instalment payments as defined in Section 26.1 of the DCA.
Development Charge Freeze:	Locking in DC rates as defined in Section 26.2 of the DCA.
Early Payment Agreement:	A municipality may enter into an agreement with a person who is required to pay a DC providing for all or any part of the charge to be paid before it would otherwise be payable (as referred to in Section 27 of the DCA).
Prime:	The prime lending rate, being the annual interest rate as indicated on the Bank of Canada website.
Security:	An agreed upon asset or assurance provided to the Town in anticipation of later payment of Development Charges, to then be returned to the owner once paid in full.
Institutional Development:	<p>For the purposes of this policy, development of a building or structure intended for use:</p> <ul style="list-style-type: none"> <li>(a) as a long-term care home within the meaning of Subsection 2 (1) of the <i>Long Term Care Homes Act, 2007</i>;</li> <li>(b) as a retirement home within the meaning of Subsection 2(1) of the <i>Retirement Homes Act, 2010</i>.</li> <li>(c) by any institution of the following post-secondary institutions for the objects of the institution: <ul style="list-style-type: none"> <li>(i) a university in Ontario that receives direct, regular and ongoing operation funding from the Government of Ontario;</li> <li>(ii) a college or university federated or affiliated with a university described in subclause (i); or</li> <li>(iii) an Indigenous Institute prescribed for the purposes of section 6 of the <i>Indigenous Institute Act, 2017</i>;</li> </ul> </li> <li>(d) as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion; or</li> <li>(e) as a hospice to provide end of life care;</li> </ul>
Rental Housing:	Development of a building or structure with four or more dwelling units all of which are intended for use as rented residential premises;

Non-profit Housing:

Development of a building or structure intended for use as residential premises by:

- (a) a corporation without share capital to which the *Corporations Act* applies, that is in good standing under that Act and whose primary objective is to provide housing;
- (b) a corporation without share capital to which the *Canada Not-for-profit Corporation Act* applies, that is in good standing under that Act and whose primary objective is to provide housing; or
- (c) a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*,

## Policy

This policy applies to the charging of interest, as permitted under sections 26.1 and 26.2 of the Development Charges Act, 1997. This includes all types of development in the Town of Ingersoll that:

1. Are eligible for annual instalment payments under section 26.1 of the Development Charges Act, 1997 (DC Deferral).
2. Have a DC Rate frozen under section 26.2 of the Development Charges Act, 1997, where an application has been made for a zoning by-law amendment passed under section 34 of the Planning Act, 1990 or where an application for approval of development in a site plan control area under subsection 41(4) of the Planning Act, 1990 has been made after January 1, 2020 (DC Rate Freeze).

### *Section 26.1 (the "payment plan"):*

Section 26.1 of the DCA provides for the deferral of development charges for rental housing development that is not non-profit housing development, institutional development, and non-profit housing development, as defined in Ontario Regulation 82/98 (as amended by O. Reg. 454/19) and any future related amendments. The equal annual instalment payments for DC's on those development types will start on the earlier of the date of the issuance of a permit under the Building Code Act authorizing occupation of the building or the date the building is first occupied.

For rental housing development that is not non-profit housing development and institutional development, development charges shall be paid in six (6) annual installments. For non-profit housing development types, development charges shall be paid in 21 annual instalments.

Section 26.1(7) of the DCA provides that interest may be charged on each instalment from the building permit issuance date to the date the instalment is paid, at a rate not exceeding the prescribed maximum interest rate. The province has not prescribed a maximum interest rate at this point in time, with the amount of interest that is charged being fully at the discretion of each individual municipality.

Annual payments are based on the calculated DC divided by the number of installments due, plus any accrued interest that has accumulated from building permit issuance date to the installment payment date. The annual interest rate applied to installment balances is determined at the time of building permit issuance and locked in for the term of the deferral.

Early payment agreements will be offered if the owner of a development would prefer to pay the full DC owing at building permit issuance versus installments over several years, thus removing interest charges on the DC payable. Agreements for payment of development charges at a date earlier than would be permitted pursuant to Section 26.1, but after building permit issuance, may also be accepted with accrued interest from building permit issuance date to the date DC's are paid.

A person required to pay a development charge referred to above on a deferred basis shall, unless the occupancy of the building is authorized by a permit under the Building Code Act, notify the municipality within five (5) business days of any part of the building first being occupied. Failure to comply with that notice will result in the development charge, including any accrued interest, becoming payable immediately.

*Section 26.2 (the "freeze"):*

Section 26.2 of the DCA provides that the total amount of a development charge for a development that is proceeding through a site plan control approval or a zoning by-law amendment approval is to be determined under the DC by-law on the date when the complete site plan application or a zoning by-law amendment application is made. If two years has elapsed since the approval of the relevant application to when the first building permit is issued, the amount of the development charge is to be determined at the issuance of the building permit (if the development charge has been deferred pursuant to section 26.1 of the DCA) or at the time the development charge becomes payable (if the development charge has not been deferred pursuant to section 26.1 of the DCA).

If a development was subject to both site plan and re-zoning applications, it is the date of the later one that is used to determine the DC. If neither of these applications apply to the development, then the DC is determined on the building permit issuance date.

If a development charge is to be calculated at the time of a site plan application or at the time of a zoning by-law amendment application, the municipality may charge interest on the DC amount at a rate not exceeding the prescribed maximum interest rate, from the date of the complete application referred to in the applicable clause to the date the development charge is payable. The province has not prescribed a maximum interest rate at this point in time, with the amount of interest that is charged being fully at the discretion of each individual municipality.

The annual interest rate applied to DC's pursuant to Section 26.2 of the DCA is determined when the DC is calculated, and is locked in until such time as the DC becomes payable, with interest accruing to the date the DC would normally be paid in the absence of any deferrals under Section 26.1 of the DCA (i.e. at building permit issuance); and prorated accordingly based on when the interest starts accruing.

Similar to early payment agreement options for deferrals under Section 26.1 of the DCA, the municipality may enter into an early payment agreement with a person who has locked in a DC rate pursuant to Section 26.2 of the DCA. The agreement can provide for all or any part of the DC to be paid before it would otherwise be due to mitigate interest charges.

If any development charges or interest charges, or any part thereof remains unpaid after it becomes payable (under both Sections 26.1 and 26.2 of the DCA), the amount unpaid shall be added to the tax roll of that property and collected in the same manner as property taxes.

### Interest Rates and Charges

1. Development Charge Rate Freeze (Section 26.2 DCA)
  - a. An annual interest rate of Prime + 2% will be charged for any DC rate frozen during the development process.
  - b. As noted in Subsection 26.2(1) of the DCA, the rate can be frozen for either:
    - i. Site Plan Control – Subsection 41(4) of the Planning Act, or
    - ii. Zoning By-law Amendment - Section 34 of the Planning Act.
  - c. Interest will accrue from the date that a complete Site Plan / Zoning application has been received until the date that the Development Charge is paid (i.e. building permit issuance for all development not eligible for the deferred payment plans under s26.2 DCA)
    - i. The Town considers an application for a Site Plan Control or Zoning Amendment to be received as of the date that the submitted application is deemed to be complete according to the applicable County of Oxford Planning staff
    - ii. If a development was subject to both site plan and re-zoning applications, it is the date of the later one that is applicable
  - d. Payment of interest is to be made in conjunction with the payment for the assessed development charges (i.e. when the building permit is issued for all development except those that are eligible for, and participating in, deferred payment plans under section 26.1 of the DCA).
  - e. For developments that are eligible for, and participating in, deferred payment plans, the interest (if applicable) accrued from the date of receipt of a site plan/zone change application to the date of the building permit issuance, will be added to the assessed development charges to determine the total development charge to be paid in instalments as set out in Section 26.1 of the DCA.
  - f. The total Development Charge payable under s26.2 DCA shall not be greater than the charge that would be calculated at building permit issuance.
2. Development Charge Deferral (Section 26.1 DCA)
  - a. An annual interest rate of Prime + 2% will be charged for any DC charges deferred in relation to qualifying:
    - i. Rental housing development (that is not considered “non-profit”)
    - ii. Institutional development
  - c. Interest will be applied from the date of the issuance of the building permit until the date that the development charges have been paid in full

- d. Section 27 of the DCA permits the payment of DCs before or after they would otherwise be due through agreements between municipalities and developers:
  - i. Developers may submit a request to pay the development charges earlier than prescribed by the DCA through the building department
  - ii. The Town may enter into an early payment agreement with the developer at the Towns' discretion
  - iii. The Director of Finance / Treasurer has delegated authority to enter into such agreements on behalf of the Town
  
- 3. The Prime interest rate to be used will be the Bank of Canada Prime Interest Rate in effect as at the April 1<sup>st</sup> immediately prior to:
  - i. The date of building permit issuance for installment payments under Section 26.1 of the Act for rental housing, institutional development, and non-profit housing; or
  - ii. The date a Site Plan or Zoning By-law Amendment application for an approval of development was made under subsection 41(4) or 34 of the Planning Act regarding the determination of the charge under Section 26.2 of the Act.
  - iii. The interest rate shall not be less than 0%.
  
- 4. Security  
At this time, the Town will not require additional security for deferrals eligible under Section 26.1 of the DCA. The deferral plans will be monitored and will be addressed should non-payment become an issue, with any unpaid DC's transferred to the tax roll of the property.