

<b>Policy Title:</b>	<b>DEVELOPMENT CHARGES INTEREST POLICY</b>
<b>Department:</b>	Treasury
<b>Effective Date:</b>	July 08, 2024
<b>Council Approval:</b>	July 08, 2024
<b>Review Date(s):</b>	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, 26.2 and 26.3 of the *Development Charges Act 1997*. 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 Act. In late 2022, the Province passed further amendments to the Act through Bill 23, More Homes Built Faster Act, 2022, which prescribed a maximum interest rate to be charged under section 26.3 of the Act.

This Policy applies to development applications that are eligible for a development charge freeze and/or deferral provided in section 26.1, 26.2 and 26.3 of the Act, 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, 26.2 and 26.3 of the 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 Act, and includes redevelopment.
Development Charges Act:	(Act) 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 Act.
Development Charge Freeze:	Locking in DC rates as defined in Section 26.2 of the Act.
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 Act).
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 Long Term Care Homes Act, 2007;</li><li>(b) as a retirement home within the meaning of Subsection 2(1) of the Retirement Homes Act, 2010.</li></ul>

- (c) by any institution of the following post-secondary institutions for the objects of the institution:
  - (i) a university in Ontario that receives direct, regular and ongoing operation funding from the Government of Ontario;
  - (ii) a college or university federated or affiliated with a university described in subclause (i); or
  - (iii) an Indigenous Institute prescribed for the purposes of section 6 of the Indigenous Institute Act, 2017;
- (d) as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion; or
- (e) as a hospice to provide end of life care;

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;

## Legislative Framework

- a) Instalment Payments under section 26 of the Act

Under subsections 26.1(1), (2) and (3) of the Act, development charges shall be paid in equal annual instalments, beginning at the earlier of first occupancy or occupancy permit under the Building Code, Act, 1992, for:

- Rental housing development
- Institutional development

The first instalment payment at occupancy is followed by five instalment payments on the anniversary date for total of six payments.

b) Interest on Instalment Payments under section 26.1 of the Act

Subsection 26.1(7) of the Act allows a municipality to charge interest on the instalments from the date the development charges would have been payable under section 26 of the Act, to the date the instalment is paid, at a rate not exceeding the maximum interest rate prescribed in accordance with section 26.3 of the Act.

c) Development Charge Freeze under section 26.2 of the Act

Under subsection 26.2(1) of the Act, the total amount of a development charge is determined under the Town's Development Charge Bylaw on:

- i) The day an application for an approval of a site plan development under subsection 41 of the Planning Act was made, or
- ii) If clause (i) does not apply, the day an application for a zoning amendment to a bylaw passed under section 34 of the Planning Act was made.

d) Interest under section 26.2 of the Act

Under subsection 26.2(3) of the Act, a municipality may charge interest on the development charge from the date of the application referred to in clause c(i) or c(ii) to the date the development charge is payable, at a rate not exceeding the maximum interest rate determined in accordance with subsection 26.3 of the Act.

e) Maximum Interest Rate under sections 26.1 and 26.2 of the Act

The rules for determining the maximum interest rate are prescribed under section 26.3 of the Act. The maximum interest rate being the average prime rate, as defined under the Act, plus 1%. The average prime rate will be determined quarterly in accordance with the adjustment dates prescribed under section 26.3 of the Act, or in accordance with the dates as defined in any successor legislation.

### 1. Interest Rate Charged

- a) The interest rate that shall be charged is the maximum interest rate permitted under section 26.3 of the Act; at the time an application under subsection 26.2(1) of the Act is received by the Town (i.e. the date development charge rates are determined). For developments with an application received under subsection 26.2(1) of the Act between January 1, 2020 and June 1, 2022 (i.e. where an interest rate is not prescribed under the Act), a rate of 5% will be used.

The rate, as prescribed above, shall be used for the duration of the application, save and except instances where a subsequent application for the same development has been made, or where the development qualifies under section 26.1 of the Act (i.e. instalment payments).

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 County of Oxford Planning staff.

If a development was subject to both site plan and re-zoning applications, it is the date of the later one that is applicable.

- b) The interest rate that shall be charged for each instalment payment under section 26.1 of the Act (i.e. for rental housing and institutional developments), will be determined as follows:
- For the first instalment payment, the maximum interest rate permitted under section 26.3 of the Act as at the date the development charges would have been payable (i.e. building permit issuance by the Town);
  - For all other instalment payments, the maximum interest rate permitted under section 26.3 of the Act as at the date of the current instalment payment.
- c) 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 Act).
- d) 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 Act.

## **2. Early Payment Agreement**

Section 27 of the Act permits the payment of DCs before or after they would otherwise be due through agreements between municipalities and developers:

- i) 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.
- ii) 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.
- iii) The Director of Finance / Treasurer has delegated authority to enter into such agreements on behalf of the Town.

## **3. Acknowledgement Letter**

For all eligible development under section 26.1 of the Act, an Acknowledgement letter will be provided to the applicant/property owner at the time of building permit issuance outlining the terms of the development charge annual instalments as per the Act and Municipal Policy.

## **4. Notice of Occupancy**

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.

## **5. Amendment or Revision of Interest Rate**

In the event that section 26.3 of the Act is repealed, a default interest rate of 5% shall be used for all eligible applications. Applications that had interest frozen prior to the repeal of section 26.3 of the Act will continue to pay the interest rate as prescribed at the time the application was made, in accordance with subsection 26.2(1) of the Act. For developments with installment payments under subsection 26.1(1), all future unpaid installments will attract the interest rate of 5%.

## **6. Compounding and Prorating**

All interest shall be compounded annually and shall accrue from the date the applicable application is deemed complete until the date the accrued amount is calculated and payable. The applicant shall have 15 days interest free to make the payment. After the 15-day period, if payment has not been made, the interest will be recalculated and reflect the new balance owing.

### **6.1. Subsequent Application(s):**

If a subsequent application(s) is made for a development:

- a) The date the subsequent application is made will become the new date under which the total amount of the development charge is determined;
- b) All interest that had accrued prior to the subsequent application shall be deemed to be nil (0);
- c) Interest will be calculated as compound interest and begin to accrue from the date the subsequent application is made.

### **6.2. Interest under section 26.1 of the Act:**

If a development was one of the eligible types of development for the installment payments under section 26.1 of the Act, the total accrued amount shall continue to accrue interest from the date of the issuance of the building permit. During the installment timeframe, interest shall continue to accrue on the outstanding balance. This shall continue until the date the total accrued amount has been fully paid.

## **7. Security**

At this time, the Town will not require additional security for deferrals eligible under Section 26.1 of the Act. 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.

## **8. Transition**

Any applicable application that was deemed complete prior to this enactment of this Policy by Council will have their interest calculated at 5%, compounded annually. Applicable applications that are deemed complete on or after the date that this Policy is enacted by Council will be charged interest in accordance with this Policy.