

Policy

Policy Name:	Development Charges Interest Policy
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:	Revised policy

Purpose:

The purpose of this policy is to establish the rules and practices for charging interest, as permitted under sections 26.1 and 26.2 of the Development Charges Act, 1997.

Policy Principles:

To support the City of Richmond Hill's ability to build growth-related infrastructure in a way that is fiscally sustainable and to help achieve the following outcomes:

- Good government providing reliable Richmond Hill programs and services
- Continued delivery of complete communities in a fiscally sustainable way
- Fair and equitable treatment of all stakeholders involved in delivering housing supply, including residents, businesses, and developers

Scope:

This policy applies to the charging of interest, as permitted under sections 26.1 and 26.2 of the Act. This includes all types of development in the City:

- That are eligible for instalment payments under section 26.1 of the Act.
- under section 26.2 of the Act, where an application for approval of development in a site plan control area under subsection 41(4) of the Planning Act, as amended, has been made, or where an application for an approval of a development in a site plan control area under subsection 41(4) of the Planning Act has not been made, but where an application has been made for an amendment to a bylaw passed under section 34 of the Planning Act, as amended.

Legislative Requirements:

Municipalities are permitted to charge interest pursuant to section 26.1(7) of the Act which states: “A municipality may charge interest on the installment required by subsection (3) from the date the development charge would have been payable in accordance with section 26 to the date the installment is paid, at a rate not exceeding the prescribed maximum interest rate”. In addition, section 26.2(3) of the Development Charges Act, 1997 states, where clause 1(a) or (b) applies, the municipality may charge interest on the development charge, at a rate not exceeding the prescribed maximum interest rate, from the date of the application referred to in the applicable clause to the date the development charge is payable.

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%.

a) Installment Payments under section 26.1 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 the date an occupancy permit under the Building Code, Act, 1992 is issued, for:

- Rental housing development that is not non-profit 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 Installment 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 26.3 of the Act to the date the instalment is paid, at a rate not exceeding the prescribed maximum interest rate.

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 City’s Development Charge Bylaw on:

- The day an application for an approval of development under subsection 41(4) of the Planning Act was made, or
- If clause (i) does not apply, the day an application for an 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, at a rate not exceeding the prescribed maximum interest rate, from the date of the application referred to in clause c(i) or c(ii) to the date the development charge is payable.

e) Maximum Interest Rate under sections 26.1 and 26.2

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.

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.

Development: The construction, erection or placing of one or more buildings or structures on land. This includes the making of an addition or alteration to a building or structure that has the effect of:

- Increasing the size, or
- Changing the use from non-residential to residential or from residential to non-residential and includes redevelopment.

Development Charge(s): Richmond Hill's development charges, including all the area-specific and city-wide charges.

Total Accrued Amount: Equal to the total of the development charges and interest which has accrued.

City: "City" means The Corporation of the City of Richmond Hill.

Policy:

1. Interest Rate Applied:

- 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 City (i.e. the date development charge rate 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).

- 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 City);
 - 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) Notwithstanding clause 1(b), at the discretion of the Treasurer, a rate less than the rate prescribed may be applied for payments under section 26.1, for developments that have taken advantage of a City development charge incentive and/or relief, current or future, and have entered into an agreement with the City under section 27 of the Act.

2. Amendment or Revision to Interest Rates:

In the event that section 26.3 of the Act is repealed, an interest rate of 5% shall be used for all future eligible applications. Applications that had the interest rate determined prior to the repeal of section 26.3, will continue to pay the interest rate as prescribed at the time an application under subsection 26.2(1) of the Act was received by the City. For developments with instalment payments (subsection 26.1(1)), all future unpaid instalments will attract the interest rate of 5%.

3. Interest Rate Publication and Notification:

Upon Council approval, this policy and the interest rates being applied shall be made available in the development charges section of the City's website.

The interest rates being applied shall also be published as part of the City's development charges pamphlet publication.

4. Simple Interest and Prorating:

- a) Simple interest will be applied and shall accrue from the date of the applicable application until the date the total accrued amount is fully paid. A 365 day calendar year, shall be used for the purposes of prorating.

If a subsequent application(s) is made for a development prior to November 28, 2022:

- The date the subsequent application is made will become the new date under which the total amount of the development charge is determined
- All interest that had accrued prior to the subsequent application shall be deemed to be zero (0)

b) Interest under section 26.1

If a development was one of the eligible types of development for the instalment payments under section 26.1 of the Act, the total accrued amount shall continue to accrue interest from the date of the issuance of a building permit.

During the instalment timeframe, interest shall continue to accrue on the outstanding balance. This shall continue until the date the total accrued amount has been fully paid.

5. Grace Period:

The City will provide a grace period of 14 calendar days for the payment of the applicable interest, commencing from the date the development charge statement is issued to the applicant. In the event payment is not received within the first 14 calendar days, the City will cancel and reissue the development charge statement to include the additional interest accrued and, provide a further 14 calendar day grace period for payment. Where a second grace period has been granted and payment has not been received by the City, the development charge statement will be cancelled and will not be reissued until the applicant has provided satisfactory confirmation to staff of the effective payment date. The reissued statement will include interest calculated to the date of payment.

6. Effective Date:

Upon approval by City Council, this revised policy shall take effect as at March 27, 2024 at 12 a.m. This policy may be repealed and/or modified by City Council at any time.

Roles and Responsibilities:

Below is a list of roles and responsibilities related to the Development Charges Interest Policy.

Financial Services Division

- Administration of this policy, including but not limited to:
 - Assisting landowners, developers, builders and other stakeholders in determining the total amount of development charges that would be determined under the City's by-laws and the applicable interest rate that would apply
 - Ensuring that the total accrued amount is being calculated and charged
 - Collection of development charges, inclusive of interest, when due and payable

Development Planning Division

- Determine the date that a Site Plan application is made for site plans in accordance with section 41(4) of the Planning Act, for the purposes of determining the date that development charge rates are frozen.
- Determine the date that an application is received for a zoning by-law amendment (subsequently deemed complete) in accordance with section 34 of the Planning Act, for the purposes of determining the date that development charge rates are frozen.

Building Division and Chief Building Official

- For developments subject to phased payments under section 26.1, provide the Financial Services Department with the date:
 - A permit authorizing occupancy under the Building Code Act, 1992 is issued
 - A building is first occupied

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.