

**DATE:** May 16, 2022

**REPORT NO:** T-13-2022

**SUBJECT:** **Development Charges Interest Policy under Sections 26.1 and 26.2 of the Development Charges Act**

**CONTACT:** Donna DeFilippis, CA CPA, Director of Finance and Treasurer

**OVERVIEW:**

- Attached to this report is a policy to address the charging of interest on development charges deferred and/or frozen, under sections 26.1 and 26.2 of the Development Charges Act
- Staff is recommending an annual interest rate of 5% which is consistent with the Niagara Region approved rate
- A \$400 administrative fee is being recommended to be charged for payment defaults related to any instalment arrangements

**RECOMMENDATION:**

1. That, Recommendation Report T-13-2022 regarding “Development Charges Interest Policy under Sections 26.1 and 26.2 of the Development Charges Act”, dated May 16, 2022, be received; and,
2. That, “Interest Policy under Sections 26.1 and 26.2 of the Development Charges Act”, as attached as Appendix A to this report be approved; and,
3. That, a \$400 administrative fee for payment defaults under Section 26.1 of the Development Charges Act be approved; and,
4. That, By-Law 2002-115 be updated to include the \$400 administrative fee for payment defaults under Section 26.1 of the Development Charges Act.

**ALIGNMENT TO STRATEGIC PLAN:**

**Theme #3 and #6**

**Strategic, Responsible Growth**

- Welcoming new residents and businesses and respecting the heritage and rural identity that people value.

**Efficient, Fiscally Responsible Operations**

- Maintaining a lean organization with innovative approaches and strong asset management.

## **BACKGROUND:**

Sections 26.1 and 26.2 of the (DCA) Development Charges Act came into effect on January 1, 2020 when Bill 138 received royal assent on December 10, 2019. These sections amended the DCA and changed the timing of the determination and payment of Development Charges in certain situation. The amendments also indicate that municipalities can charge interest, however, no rate has been prescribed. This report will provide more detail regarding these amendments and also recommend a rate of interest. A new policy is also attached as Appendix A to this report which provides further clarification to both developers and staff.

## **CURRENT SITUATION:**

**Section 26.1** of the DCA states that development charges for certain types of developments are payable in instalments over a certain period of time as follows:

- Institutional developments and rental housing (that is not non-profit) over six annual instalments
- Non-profit housing developments over twenty-one annual instalments

The first instalment payment would occur on the date of issuance of the occupancy permit or occupancy of the building, whichever is earlier, with the subsequent instalments occurring annually on the anniversary date of when the first instalment was payable.

For the purposes of subsection 26.1 (2) of the DCA, institutional development means development of a building or structure intended for use, as follows:

- as a long-term care home within the meaning of subsection 2 (1) of the *Long-Term Care Homes Act, 2007*; as a retirement home within the meaning of subsection 2 (1) of the *Retirement Homes Act, 2010*;
- by any of the following post-secondary institutions for the objects of the institution: a university in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario, a college or university federated or affiliated with a university
- an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*;
- as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion; or
- as a hospice to provide end of life care. O. Reg. 454/19, s. 3 (1).

**Section 26.2** of the DCA establishes guidelines for determining the calculation date for development charges. Under this section the calculation date is the earlier of:

- 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 development charge;
- If the above 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 development charge; or

- if neither of the above are applicable, the charge will continue to be determined at the time of building permit issuance

The Development Charges are effectively frozen at the rate in effect at the time of submission of a complete Site Plan or Zoning By-Law Amendment Application. Under section 26.2 of the DCA, upon approval of one of the above two planning applications, developers have a minimum of two years in which a building permit must be issued and the development charges paid at these frozen rates or the rates will continue to be calculated at the time of permit issuance. Section 26.2 applies to application that were submitted on or after January 1, 2020.

Both Sections 26.1 and 26.2 of the DCA allows an annual interest rate to be applied to both the instalments and frozen rates. The interest period for installment payments is from the date of building permit issuance to the date of Development Charge payment. The interest period for frozen rates is from the date of the complete application to the date of Development Charge payment. Unpaid Development Charges, including unpaid interest, can be added to the tax roll.

#### **FINANCIAL IMPLICATIONS:**

The proposed interest rate of 5% is intended to offset the Township's opportunity cost of providing the development charge rate freeze and instalment payment plan. This interest rate of 5% is in alignment with the rate approved by the Niagara Region through report CSD-49-2020. The interest revenue generated will be fully allocated back to the respective development charge reserve on a pro-rated basis. Should the Province prescribe a maximum interest rate in the future, the Township will revisit this rate.

In the event of a default of payment under a Section 26.1 instalment plan, a \$400 administrative fee is proposed to offset staff time required to remedy the default which may include adding any outstanding instalment amounts to the tax roll. This fee will be recognized as operating revenue.

#### **INTER-DEPARTMENTAL COMMENTS:**

This report was reviewed by the Director of Planning and Building as well as the CAO.

#### **CONCLUSION:**

Staff is recommending that Council approve this report, along with the Development Charges Interest Policy under Sections 26.1 and 26.2 of the Development Charges Act, as attached as Appendix A. Staff is recommending a 5% interest rate, which is the same rate the Niagara Region is using.

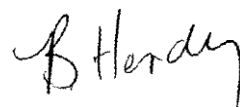
**Prepared & Submitted by:**



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**Donna DeFilippis, Director of Finance**

**Approved by:**



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**Bev Hendry, CAO**