

TOWNSHIP OF WEST LINCOLN
Interest Policy under Sections 26.1 and
26.2 of the Development Charges Act

TITLE:	Interest Policy under Sections 26.1 and 26.2 of the Development Charges Act
POLICY NUMBER:	POL-T-01-2022
APPROVAL DATE:	May 24, 2022
EFFECTIVE DATE:	January 1, 2020

1. PURPOSE:

To establish the rules and practices for charging interest on development charges deferred and/or frozen under sections 26.1 and 26.2 of the Development Charges Act, 1997

2. SCOPE:

This policy applies to the charging of interest on development charges that are eligible to be deferred and/or frozen as follows:

- 2.1** That are eligible for deferred payments under 26.1 of the Development Charges Act, 1997
- 2.2** That are eligible to benefit from frozen payments under section 26.2 of the Development Charges Act, 1997

3. DEFINITIONS:

3.1 DCA: Development Charges Act, 1997

3.2 Township: The Township of West Lincoln

3.3 Institutional Development: institutional development means development 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* or 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 described in sub clause (i) or an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*; or 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).

3.4 Complete Application: Pursuant to Section 26.2 of the DCA, the

Township considers an application of a Site Plan, under Section 41 of the Planning Act, R.S.O 1990 c. P13 or Zoning Amendment under Section 34 of the Planning Act, R.S.O 1990 c. P13 to be made as of the date that the submitted application is deemed to be complete according to the Township's Planning staff.

4. LEGISLATIVE FRAMEWORK

- 4.1** Deferred payments under 26.1 of the Act: the province has mandated the deferral of development charges for the following:
 - 4.1.1** Rental housing development that is not non-profit housing as defined under section 11.1 (1) of O. Reg 82/98 as per section 3 (a) of the Act;
 - 4.1.2** Institutional development as defined under section 11.1 (2) if O. Reg. 82/98 as per section 3 (a) of the Act; and
 - 4.1.3** Non-profit housing development as defined under section 11.1 (3) of O. Reg. 82/98 as per section 3 (b) of the Act.
 - 4.1.4** Development charges for rental housing and institutional development shall be paid in equal annual installments beginning on the earlier of the date of the issuance of a permit under the Building Code Act, 1992 authorizing occupation and the date the building is first occupied, and continuing on the following five anniversaries of that date.
 - 4.1.5** Development charges for non-profit housing shall be paid in equal annual installments beginning on the earlier of the date of the issuance of a permit under the *Building Code Act, 1992* authorizing occupation and the date the building is first occupied and continuing the following twenty anniversaries of that date.
- 4.2** 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 installments from the date the Development Charges would have been payable, under section 26 of the Act, to the date of the installment is paid, at a rate not exceeding the prescribed maximum interest rate.
- 4.3** 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 Township's Development Charge By-Laws based on:

4.3.1 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, or,

4.3.2 If a site plan application has not been applied for, the day a complete application for an amendment to a bylaw passed under section 34 of the *Planning Act* was made

4.4 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 subsection 26.2. (1)(a) or 26.2.1(b) of the Act to the date the development charge becomes payable.

4.5 Maximum interest rate under section 26.1 and 26.2: The Act allows a municipality to charge interest on the development charge amounts that are deferred or on the development charges that are frozen at a rate not exceeding the prescribed maximum interest rate. There is no prescribed maximum interest rate under subsection 26.1 and 26.2 of the Act.

5. POLICY

Development Charge Freeze under section 26.2 of the DCA:

5.1 The application made date for the purposes of this Policy and 26.2 of the Act is established as being the date a complete application is received by the Township Planning Department.

5.2 The applicant shall be notified of the date the application is considered complete and the date the application is approved for the purposes of Section 26.2 of the DCA by the Township

5.3 Application Appeal

5.3.1 Should any Township decision on the application(s) as noted under sections 4.3.1 or 4.3.2 be appealed, the Township decision will stand until final resolution of the appeal.

5.3.2 Should a decision on an unapproved application be successfully appealed, the application made date will apply to sections 4.3.1 or 4.3.2 of this policy and the application approval date shall be the date the appeal is approved.

5.3.3 Should a decision on an approved application be upheld, the application made date will apply to section 4.3.1 or 4.3.2 of this policy and the application approval date shall be the date the

decision is upheld.

- 5.4** Should a decision on an approved application be successfully appealed or a decision on an unapproved application be upheld, the application made date will not apply to sections 4.3 of this policy.
- 5.5** Interest on Development Charges for Subsection 26.2 (3) of the DCA: interest will be charged at the rate established in this policy on the development charge, from the date of the application referred to in clause 4.3.1 or 4.3.2 of this policy, to the date the development charge is payable.
- 5.6** Final Determination of Total Payable Development Charges: on the day the development charge(s) is first payable, the final determination of the total payable development charge(s) shall be made.

Deferred Payments under section 26.1 of the DCA:

5.7 Acknowledgment Letter

For all eligible development under section 26.1 of the DCA 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 installments as per the Township policy and the DCA.

5.8 Notice of Occupancy

- 5.8.1** The person responsible to pay development charges shall notify the Township in writing within five business days of the building first being occupied unless an occupancy permit has been issued by the Township for the purposes of section 26.1 of the Act.
- 5.8.2** Under subsection 26.1 (6) of the Act, failure to comply with the occupancy notice requirement under 5.8.1 will result in the development charge including any interest payable becoming payable immediately.
- 5.8.3** If the person responsible to pay development charges receives an occupancy permit issued by the Township, the Township must notify the Niagara Region within five business days for the purposes of section 26.1 of the Act.

5.9 Interest on Installments for Subsection 26.1 (7) of the Act

Interest will be charged on installments at the rate found in section

5.13.1 from the date the development charge would have been payable in accordance with section 26 of the Act and the Township's Development Charge by-law.

5.10 Schedule of Installment Payments

5.10.1 The Township will provide an Installment Payment Schedule to the person required to pay development charges once notified of occupancy.

5.10.2 Acknowledgement of the Instalment Payment Schedule and the first installment payment shall be due within 15 days of the Installment Payment Schedule being provided. It will be the responsibility of the person responsible to pay development charges to provide payment in a prompt and timely manner as per the schedule, no further notification of upcoming payments will be given

5.11 Termination of the Installment Schedule

The remaining balance of all development charges shall be payable within 15 days immediately following the notification / determination of any of these trigger events:

- a)** Change of use to a development type that is not eligible for development charge installments under the Act, as of the day the change is made.
- b)** Sale or transfer of ownership.
- c)** If the balance of Township development charges owing plus any accrued interest as per the installment schedule is paid to the Township.

5.12 Unpaid Development Charges

5.12.1 If any development charges (including interest) are unpaid, those development charges (including interest) may (at the discretion of the Township) be added to the tax roll and collected in the same manner as taxes, in accordance with section 32 of the Act.

5.12.2 Interest on late payments added to the tax roll shall incur the applicable taxation interest rate (as provided under section 345 of the Municipal Act, 2001).

5.13 Interest Rate Used

5.13.1 An interest rate of 5% shall be used for the purposes of section 26.1 and 26.2 and shall be made available on the Township's website under the development charges page.

5.13.2 An interest rate of 0% shall be used for the purpose of section 26.1 and 26.2 for the following types of development: Non-profit housing development as defined under section 11.1 (3) of O. Reg. 82/98

5.14 Late Payment Penalty and Interest on unpaid Development Charge

5.14.1.1 All development charge installment (including interest) that are unpaid as per the criteria established under section 26.1 of the Act, will be subject to a Township administration fee and may also be added to the tax roll and collected in the same manner as taxes, in accordance with section 32 of the Act.

5.14.1.2 Interest on late payments added to the tax roll shall incur the applicable taxation interest rate as established by the Township

SCHEDULE “A” TO POLICY – T – 01 – 2022

Example Under Section 26.2 – Frozen Rate

- January 2, 2022** Developer submits complete application for an approval of a single family detached home development in a site plan control area under subsection 41 (4) of the Planning Act representing the DC frozen date.
- May 30, 2022** Developer receives approval of application for development. Developer has 2 years from date to be issued a building permit.
- May 01, 2024** Developer is issued building permit within 2 years of approval for development and therefore remains eligible for frozen rates plus annual interest of 5% (non-compounding).
- Township Development Charges **January 2, 2022 = \$13,891**
 - Interest Rate = **5%** (annual non-compounding)
 - Number of Days between Development Approval and Building Permit Issuance (and thus DC Payment) = **850 Days (January 2, 2022 to May 01, 2024)**
 - Interest Factor = **11.6%** $([850 \text{ Days} / 365 \text{ Days}] \times 5\%)$
 - DC Amount Payable = **\$15,502** $(\$13,891 \times 1.116)$

Example Under Section 26.1 – Installment Payments

- January 2, 2022** Royal Canadian Legion branch is issued a building permit for a **1,000** sq. ft. facility.

DCs Calculated at **January 2, 2022 = \$3,740** $(\$3.74 \times 1,000 \text{ sq. ft.})$

Institutional Developments are eligible for 6 annual installments beginning on the earlier of: building occupancy or issuance of occupancy permit.

- January 3, 2023** Occupancy permit issued for development meaning first DC installment is due.

Interest Rate to be charged on outstanding balances = **5%**. DC payable is \$3,740

Chart below is the resulting Installment Payment Plan:

		Principle Payment	Interest Payment	Total Payment	Principle Outstanding
Building Permit Issuance		\$ -	\$ -	\$ -	\$ 3,740.00
Building Occupancy		\$ 623.33	\$ 187.00	\$ 810.33	\$ 3,116.67
1st Anniversary of Occupancy		\$ 623.33	\$ 155.83	\$ 779.16	\$ 2,493.34
2nd Anniversary of Occupancy		\$ 623.33	\$ 124.67	\$ 748.00	\$ 1,870.01
3rd Anniversary of Occupancy		\$ 623.33	\$ 93.50	\$ 716.83	\$ 1,246.68
4th Anniversary of Occupancy		\$ 623.33	\$ 62.33	\$ 685.66	\$ 623.35
5th Anniversary of Occupancy		\$ 623.35	\$ 31.17	\$ 654.52	\$ -
Total		\$ 3,740.00	\$ 654.50	\$ 4,394.50	