

DATE: October 21, 2024

REPORT NO: T-20-2024

SUBJECT: **Development Charges Interest Policy (POL-T-01-2022) Update**

CONTACT: Katelyn Repovs, CPA, CA Deputy Treasurer/Manager of Finance
Donna DeFilippis, CPA, CA Director of Finance/Treasurer

OVERVIEW:

- This report outlines administrative updates required to the Township’s POL-T-01-2022 “Interest Policy under Sections 26.1 and 26.2 of the Development Charges Act”, largely in response to legislation changes, and attached as Schedule “A”.

RECOMMENDATION:

- 1) That, Recommendation Report T-20-2024, titled “Development Charges Interest Policy (POL-T-01-2022) Update” be received; and,
- 2) That, “Interest Policy under Sections 26.1 and 26.2 of the Development Charges Act”, attached as Schedule “A” to this report, be approved.

ALIGNMENT TO STRATEGIC PLAN:

- **Theme #2: Champion strategic and responsible growth:** Development Charges act as a key funding component to meet growth-related infrastructure requirements.
- **Theme #4: Foundational: Advance organizational capacity and effectiveness:** Preparation of this report and updates to the Policy will ensure the Township complies with legislation changes.

BACKGROUND:

At the May 16, 2022 Administration/Finance/Fire Committee meeting, Council received Report T-13-2022 “Development Charges Interest Policy under Sections 26.1 and 26.2 of the Development Charges Act”. This report introduced a new Policy (POL-T-01-2022) in response to Bill 138, *Plan to Building Ontario Together Act, 2019*, which resulted in sections 26.1 and 26.2 of the *Development Charges Act, 1997* (DCA) coming into effect on January 1, 2020. The Policy addressed payment timing and charging of interest on development charges (DCs) that are deferred and/or frozen for certain classes of developments, as required under sections 26.1 and 26.2 of the DCA. This Policy was approved by Council on May 24, 2022.

For developments that are eligible for deferred DCs under section 26.1 of the DCA and payable through an instalment plan, interest will accrue from the date of the building permit issuance, up until the last instalment is paid. For applicable developments under section 26.2 of the DCA, DCs are frozen as of the day the development application is deemed complete. Interest will accrue on the frozen DCs from this day, until the DCs are payable via the building permit, along with the accrued interest.

The Policy established an interest rate to be used by the Township in calculating the interest on deferred and/or frozen DCs of 5%, which was in alignment with several other local municipalities. At the time, no maximum interest rate had been prescribed under the DCA legislation, leaving the interest rate to each municipality's discretion.

CURRENT SITUATION:

There have been changes to the DCA legislation since the Township's Policy POL-T-01-2022 "Interest Policy under Sections 26.1 and 26.2 of the Development Charges Act" was first approved. The changes that affect the Policy are outlined below, and those proposed changes have also been made to the Policy, attached as Schedule "A" to this report, as indicated through the highlighted text.

Prescribed Maximum Interest Rate

With Bill 23, *More Homes Built Faster Act, 2022*, receiving Royal Assent on November 28, 2022, section 26.3 of the DCA was amended to define the prescribed maximum interest rate that can be applied for the purposes of sections 26.1(7) and 26.2(3) of the DCA.

As of June 1, 2022, section 26.3 of the DCA notes **the maximum interest rate is the average prime rate, as defined under the DCA, plus 1%**. The average prime rate is adjusted quarterly, in accordance with the adjustment dates, which are January 1, April 1, July 1, and October 1. On each adjustment date, the rate will be equal to the average prime on:

- October 15 of the previous year, for a January 1 adjustment date
- January 15 of the same year, for a April 1 adjustment date
- April 15 of the same year, for a July 1 adjustment date
- July 15 of the same year, for a October 1 adjustment date

Between January 1, 2020 and May 31, 2022, an interest rate is not prescribed under the DCA, therefore Administration recommends that a rate of 5% continue to be used, which agrees to the Township's existing policy. From June 1, 2022 onwards, the maximum rate is prescribed per the DCA and must be followed. This means that, on a quarterly basis at each adjustment date, the Township must apply the lower of the DCA's prescribed maximum interest rate and the Township's existing policy rate of 5%.

Administration recommends that the current Policy (POL-T-01-2022) be updated, as of June 1, 2022, to reflect the maximum interest rate definition per the DCA, to ensure the Township can charge the maximum allowable interest rate, rather than 5%. In the event that the legislation is repealed in the future, Administration has added Policy section 5.4, stating that a default interest rate of 5% would be used.

The below table outlines the maximum interest rate, from June 1, 2022 onwards, that can be charged between each time period. Prior to June 1, 2022, a rate of 5% is used. Interest is calculated on the deferred and/or frozen DCs using a simple interest method.

Administration has developed a calculation template to mostly automate the determination of the appropriate DCs, along with the total interest charge.

Adjustment Date per DCA	Maximum Interest Rate per DCA
June 1, 2022 - June 30, 2022	3.45%
July 1, 2022 - September 30, 2022	4.20%
October 1, 2022 - December 31, 2022	5.70%
January 1, 2023 - March 31, 2023	6.45%
April 1, 2023 - June 30, 2023	7.45%
July 1, 2023 - September 30, 2023	7.70%
October 1, 2023 - December 31, 2023	8.20%
January 1, 2024 - March 31, 2024	8.20%
April 1, 2024 - June 30, 2024	8.20%
July 1, 2024 - September 30, 2024	8.20%
October 1, 2024 - December 31, 2024	7.95%

Reduction of DC Rate Freeze Timeline (From Two Years to 18 Months)

For applications eligible for frozen DCs under section 26.2(1) of the DCA, such as site plan and/or zoning by-law amendments, the DCs are frozen at the rates that were in effect at the time a complete application was submitted. Once the municipality approved the application, the applicant had the “prescribed amount of time”, which was set at two years, from the approval date to be issued their building permit and pay their frozen DCs (plus accrued interest).

Bill 185, *Cutting Red Tape to Build More Homes Act, 2024*, which received Royal Assent on June 6, 2024, reduced this “prescribed amount of time” two-year timeline to 18 months, per DCA section 26.2(5). This means that if the date the DCs are payable is more than 18 months from the applicant’s approval date, the DCs are no longer eligible to be frozen. The applicant would then pay the DCs in effect upon building permit issuance.

Under section 4.6 of the Township’s current Development Charges By-Law 2019-51, as amended by By-Law 2022-77, the two-year timeline is explicitly noted. Since this is the current By-Law in effect, the Township must continue to allow a two-year timeline, until such time that a new By-Law is passed. That being said, when the Township’s new Development Charges By-Law is passed, which is anticipated to be on October 28, 2024, the timeline will be reduced to reflect the current DCA legislation of 18 months. This would apply to any applications approved after the new By-Law comes into effect.

Administration recommends updating both the Township’s Policy and Development Charges By-law to align with the current DCA legislation by using the same “prescribed amount of time” wording as the DCA to ensure these documents remain current.

Other Housekeeping Changes

A few other refinements were made to the Policy attached as Schedule “A”, such as:

- Removed reference to Non-Profit Housing Developments, which are now exempt from paying development charges and no longer part of instalment payments under section 26.1 of the Act, as per Bill 23.
- Added “Policy Administration” section to outline the roles and responsibilities of Council and Administration, in enforcing, administering and monitoring of this Policy.

FINANCIAL IMPLICATIONS:

DCs are the Township’s primary source of funding for growth-related capital infrastructure. The freezing of DC rates and the deferral of payments has the effect of disconnecting the cost of infrastructure from the rates being paid. Developers may lock into a DC rate from a previous DC background study, which may not include future infrastructure costs.

The current Policy rate of 5% is lower than the maximum allowable rate per the DCA legislation, for the period of October 1, 2022 - present. Updating the Policy’s interest rate to align with DCA legislation of average prime + 1% will allow the Township to maximize the interest earning potential when the average prime rate is high. However, when the rate begins to lower, the interest revenue will also decrease. The interest revenue earned would be allocated back to the applicable DC reserve funds.

Including an interest component when administering the frozen DC payments helps improve cost recovery and also encourage development to proceed in a timely fashion, because interest will continue to accrue until an applicant acquires a building permit.

INTER-DEPARTMENTAL COMMENTS:

This Report has been discussed with the Senior Management Team.

CONCLUSION:

It is recommended that Council approve the revised Interest Policy, as attached. Revising the Policy to charge the prescribed maximum interest rate allows consistency with the DCA.

Prepared by:

Katelyn Repovs, CPA, CA
Deputy Treasurer/Manager of Finance

Approved by:

Truper McBride
CAO

Submitted by:

Donna DeFilippis, CPA, CA
Director of Finance/Treasurer

ATTACHMENT: Schedule “A”: POL-T-01-2022 Interest Policy under Sections 26.1 and 26.2 of the Development Charges Act (Revised)