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<b>TITLE:</b>	Interest Policy under Sections 26.1 and 26.2 of the Development Charges Act
<b>POLICY NUMBER:</b>	POL-T-01-2022
<b>EFFECTIVE DATE:</b>	January 1, 2020
<b>POLICY AMENDED:</b>	October 21, 2024 (Report T-20-2024)

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**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

This policy does not apply to developments whose development charges are calculated and paid at building permit issuance.

**3. POLICY ADMINISTRATION**

**Township of West Lincoln Council**

- Approve, by resolution, the “Interest Policy under Sections 26.1 and 26.2 of the Development Charges Act” and any updates as necessary every five years or upon expiry of the Township’s Development Charges By-law.

**Director of Corporate Services/Chief Financial Officer**

- Administer this policy, including but not limited to:
  - Determining the total amount of the development charge that would be determined under the by-law including the applicable interest amount that would apply;
  - Ensure the total amount is being charged and collected when due.

**Director of Planning & Building or Chief Building Official**

- Enforce 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 Municipality’s by-laws;

- Confirming that an application was received by the Township (and the dates an application was deemed complete and subsequently approved) for a site plan or a zoning by-law amendment;
- Informing the Corporate Services Department if a development qualifies to have the development charge rate frozen under section 26.2 of the Act or payments deferred under section 26.1 of the Act.

#### 4. DEFINITIONS:

- 4.1 DCA/ The Act:** Development Charges Act, 1997 as amended or revised
- 4.2 Township:** The Township of West Lincoln
- 4.3 Institutional Development:** Development building or structure intended for use, in accordance with O. Reg. 454/19, s. 3 (1), 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*;
  - 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.
- 4.4 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.

#### 5. LEGISLATIVE FRAMEWORK

##### 5.1 Deferred payments under 26.1 of the Act

The province has mandated the deferral of development charges for the following:

- 5.1.1** 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; and

**5.1.2** Institutional development as defined under section 11.1 (2) O. Reg. 82/98 as per section 3 (a) of the Act.

**5.1.3** 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, for a total of six equal payments.

All other development shall pay their development charges upon the issuance of a building permit unless an early or late payment agreement has been entered into under subsection 27 (1) of the Act.

**5.1.4** 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 the last installment is paid, at a rate not exceeding the prescribed maximum interest rate.

## **5.2** 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-Law based on:

**5.2.1** 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,

**5.2.2** 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.

**5.2.3** If neither clause 5.2.1 or 5.2.2 applies, the date the development charges would have been payable under section 26 of the Act which is normally building permit issuance as per the Township's Development Charges By-law, unless permitted otherwise through section 26.1 of the Act.

**5.2.4** Building permit issuance must occur within the prescribed amount of time, in accordance with subsection 26.2(5) of the Act, of the applicable site plan or zoning by-law amendment approval date; otherwise, development charges are calculated at the rates in effect at the time of building permit issuance.

5.2.5 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 is deemed complete to the date the development charge becomes payable.

### 5.3 Maximum interest rate under section 26.1 and 26.2

Subsection 26.3(2) of 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. Prior to June 1, 2022, the maximum interest rate is not prescribed by the Act, therefore the interest rate used by the municipality is 5%. On June 1, 2022 and thereafter, the maximum rate that can be charged is outlined below:

The maximum rate of interest shall be an annual interest rate that is 1% point higher than the base rate of interest, which is equivalent to the average prime rate. Subsection 26.3(1) of the Act defines the 'average prime rate'. The base rate of interest shall be determined for each adjustment date and be equal to the average prime rate on, or in accordance with dates as defined in any successor legislation:

- i. October 15 of the previous year, for an adjustment date of January 1,
- ii. January 15 of the same year, for an adjustment date of April 1,
- iii. April 15 of the same year, for an adjustment date of July 1, and
- iv. July 15 of the same year, for an adjustment date of October 1.

### 5.4 Amendment or revision of maximum 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. POLICY

Development Charge Freeze under section 26.2 of the DCA:

- 6.1 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.
- 6.2 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.

### **6.3 Application Appeal**

**6.3.1** Should any Township decision on the application(s) as noted under sections 5.2.1 or 5.2.2 be appealed, the Township decision will stand until final resolution of the appeal.

**6.3.2** Should a decision on an unapproved application be successfully appealed, the application made date will apply to sections 5.2.1 or 5.2.2 of this policy and the application approval date shall be the date the appeal is approved.

**6.3.3** Should a decision on an approved application be upheld, the application made date will apply to section 5.2.1 or 5.2.2 of this policy and the application approval date shall be the date the decision is upheld.

**6.3.4** 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 5.2 of this policy.

### **6.4 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 5.2.1 or 5.2.2 of this policy, to the date the development charge is payable.

**6.5 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:

### **6.6 Acknowledgement 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.

### **6.7 Notice of Occupancy**

**6.7.1** 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.

**6.7.2** 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.

**6.7.3** 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.

## **6.8 Interest on Installments for Subsection 26.1(7) of the Act**

Interest will be charged on installments at the rate found in section 6.13 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.

## **6.9 Schedule of Installment Payments**

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

**6.9.2** 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

## **6.10 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.

## **6.11 Unpaid Development Charges**

**6.11.1** 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.

**6.11.2** 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).

## **6.12 Interest Rate Used**

**6.12.1** For the purposes of section 26.1 and 26.2, interest rates will be calculated at the maximum prescribed interest rate as noted in subsection 26.3(2) of the Act for rental units, institutional development and frozen development charges.

## **6.13 Late Payment Penalty and Interest on Unpaid Development Charge**

**6.13.1** 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 as per the Township's Consolidated User Fees and Charges By-Law 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.

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