

THE CORPORATION OF THE CITY OF VAUGHAN

CORPORATE POLICY

POLICY TITLE: DEVELOPMENT CHARGE INTEREST POLICY – UNDER SECTIONS 26.1, 26.2 AND 26.3 OF THE DEVELOPMENT CHARGES ACT, 1997

POLICY NO.: 12.C.17

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|---------------------------------------|-------------------------------------------------------|-----------------------------|--------------|
| Section: | Finance & Budgets | | |
| Effective Date: | May 09, 2023 | Date of Last Review: | May 09, 2023 |
| Approval Authority: Council | Policy Owner: DCM, Corporate Services & CFO | | |

POLICY STATEMENT

A Policy governing the charging of interest, as permitted under sections 26.1, 26.2 and 26.3 of the *Development Charges Act, 1997*.

PURPOSE

To establish the rules and practices for charging interest, as permitted under sections 26.1, 26.2, and 26.3 of the *Development Charges Act, 1997*.

This Policy will support the City of Vaughan’s ability to build growth-related infrastructure in a way that is fiscally sustainable and will help to achieve the following objectives:

- Reliable delivery of growth-related City programs and services.
- Continued delivery of complete communities in a financially 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, 26.2, and 26.3 of the *Development Charges Act, 1997*. This includes all types of development and redevelopment in the City of Vaughan:

- That are eligible for installment payments under 26.1 of the *Development Charges Act, 1997*

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- Under section 26.2 of the *Development Charges Act, 1997*, where an application has been made for:
 - Approval of development in a site plan control area under subsection 41(4) of the *Planning Act, 1990*, or
 - An amendment to a By-law passed under Section 34 of the *Planning Act, 1990*

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%.

DEFINITIONS

1. **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.
2. **Development:** The construction, erection or placing of one or more buildings or structures on land, or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof and includes redevelopment.
3. **Development Charges (DC):** A charge imposed against land in the City pursuant to the Development Charges By-law.
4. **DCM/CFO:** Deputy City Manager of Corporate Services, Chief Financial Officer, and Treasurer.
5. **Planning Act:** *The Planning Act*, R.S.O. 1990, c. P.13, as amended.
6. **Total Accrued Amount:** Equal to the total of the development charges and interest which has accrued.

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POLICY

1. Legislative Framework

1.1. Installment payments under 26.1 of the Act

Under subsections 26.1(1), (2) and (3) of the Act, development charges shall be paid in equal annual installments, beginning at the earlier of first occupancy or occupancy permit under the *Building Code Act, 1992*, for:

- Rental housing development
- Institutional development.

1.2. 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 maximum interest rate determined in accordance with section 26.3 of the Act.

1.3. Development charge freeze under section 26.2 of the Act

Generally, subsection 26.2(1) of the Act states that the total amount of a development charge is determined under the City's Development Charge By-Laws based on:

- 1.3.1. The day an application for an approval of development under subsection 41(4) of the *Planning Act* was made pursuant to clause 26.2(1)(a) of the Act, or,
- 1.3.2. If clause 26.2(1)(a) of the Act does not apply, the day an application for an amendment to a bylaw passed under section 34 of the *Planning Act* was made pursuant to clause 26.2(1)(b) of the Act.

1.4. 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 clauses 26.2(1)(a) and (b) of the Act to the date the development charge becomes payable, in accordance with section 26.3 of the Act.

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1.5. Maximum interest rate under section 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 any successor legislation.

2. Interest Rate Charged

2.1 Interest Rate Charged for 26.2 and Timing

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 an application is deemed complete). 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 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.

2.2 Interest Rate Charged for 26.1 and Timing

The interest rate that shall be charged for each instalment payment under section 26.1 of the Act, will be determined as follows:

- For the first installment payment, the maximum interest rate permitted under section 26.3 of the Act as at the day the development charges would have been payable (i.e. building permit issuance by the City);
- For all subsequent installment payments, the maximum interest rate permitted under section 26.3 of the Act as at the date of the installment payment

2.3 Interest Exceptions

Notwithstanding sections 2.1 and 2.2 of this Policy, at the discretion of the Treasurer, a rate less than the rate prescribed may be applied for payments

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under section 26.1, for developments that have taken advantage of a City development charge incentive and/or relief, current or future.

Further, in the event that an agreement has been entered into pursuant to section 27 of the Act, sections 2.1 and 2.2 of this Policy do not apply. An application that is eligible and makes use of a deferral under an existing City policy will be charged interest in accordance with the deferral policy during the deferral period.

3. Amendment or Revision of 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%.

4. Interest Rate Publication and Notification

Upon Council approval, this Policy and the interest rates being used shall be made available on the City's website.

5. Compounding and Prorating

All interest shall be compounded annually and shall accrue from the date the applicable application is deemed complete until the date the accrued amount is calculated and payable. The applicant shall have fourteen (14) days interest free to make the payment. After the fourteen (14) day period, if payment has not been made, the interest will be recalculated and reflect the new amount owing. A 365-day calendar year shall be used for the purposes of prorating.

5.1. Subsequent Application(s)

If a subsequent application(s) is made for a development:

- 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);

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- Interest will be calculated as compound interest and begin to accrue from the date the subsequent application is made.

5.2. Interest under section 26.1

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

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

6. Effective Date

Upon approval by Council, this Policy shall take effect as of May 17, 2023 at 12 a.m. This Policy may be repealed and/or modified by Council at any time.

7. Transition

Any applicable application that was deemed complete prior to this enactment of this Policy by Council will have their interest calculated at 5%, compounded annually, as per the previous policy 12.C.08.

Applicable applications that are deemed complete on or after the date that this Policy is enacted by Council will be charged interest in accordance with this Policy.

8. Non-Applicability

If a development is eligible under (i) either section 26.1 or 26.2 of the *Development Charges Act, 1997*; and (ii) a deferral under an existing City policy, the interest charges outlined in this Policy would apply only if the development does not make use of the deferral offered under the applicable City deferral policy.

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9. Roles and Responsibilities

9.1. DCM Corporate Services, City Treasurer and Chief Financial Officer

- Maintains administrative authority and responsibility for the Development Charges Interest Policy -Under Section 26.1, 26.2 and 26.3 of the *Development Charges Act, 1997*.
- Approves department operating procedures and processes under this Policy.

9.2. Director, Financial Planning and Development Finance

- Responsible for administering this policy, including but not limited to:
 - Assisting stakeholders in determining the total amount of the development charge that would be determined under the bylaw and the applicable interest rate that would apply.
 - Ensure the total accrued amount is being charged and collected when due.

9.3. Manager, Development Finance, Financial Planning and Development Finance

- 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.
- Collect all development charges, including interest, when due and payable.
- Monitor all development applications and ensure that the correct amount of the development charge is being used and that the total amount of accrued interest has been calculated and charged.

9.4. Director, Building Standards or designate

- For developments subject to phased payments under section 26.1, provide the Development Finance Department with the date:
 - A permit authorizing occupancy under the *Building Code Act, 1992* is issued

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- A building is first occupied

9.5. Director, Development Planning or designate

- Confirm that a complete application was made for site plan application or a zoning by-law amendment the purposes of determining the total amount of the development charge and interest calculation

ADMINISTRATION

Administered by the Office of the City Clerk.

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| Review Schedule: | 3 Years If other, specify here | Next Review Date: | May 9, 2026 |
| Related Policy(ies): | 12.C.08 DEVELOPMENT CHARGE INTEREST POLICY – UNDER SECTIONS 26.1 AND 26.2 OF THE DEVELOPMENT CHARGES ACT, 1997 | | |
| Related By-Law(s): | | | |
| Procedural Document: | | | |

Revision History

| Date: | Description: |
|-------------------------------|-------------------------|
| 24-Apr-23 | Establishment of Policy |
| Click or tap to enter a date. | |
| Click or tap to enter a date. | |