

Policy Title: Development Charges Interest Rates and Associated Payments

Policy Number: 04-01-08

Section:	Finance	Subsection:	Fees and Other Revenue
Effective Date:	February 3, 2021	Last Review Date:	[Last Review]
Approved by:	Council	Owner Division/Contact:	Financial Strategies, Finance Division, Corporate Services Department

Policy Statement

This policy governs how interest will be calculated and applied to frozen development charges (DCs) rates and deferred development charge payments pursuant to Section 26.1 and 26.2 of the *Development Charges Act, 1997, S.O. 1997, c.27 (DCA)*.

Purpose

The purpose of this policy is to establish the rules and practices for charging interest on development charges that are eligible for a freeze and/or deferral under Sections 26.1 and 26.2 of the DCA.

Scope

This policy applies to:

- Developments that are eligible for a DC freeze under Section 26.2 of the DCA, which freezes DC rates for developments requiring site plan application and/or zoning by-law amendment approvals, and
- Developments that qualify for a DC deferral under Section 26.1 of the DCA. Eligible developments include rental housing, institutional development and non-profit housing

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

Definitions

For the purposes of this policy:

"Development Charges Payment Agreement" means an agreement between the applicant and the City that sets out the terms and schedule for DC deferral instalments and interest payments,

in a form satisfactory to the Commissioner of Corporate Services and City Clerk or their delegates.

“Development Charges Prepayment Agreement” means an agreement between the applicant and the City that formalizes payment of DCs in full at building permit issuance, in a form satisfactory to the Commissioner of Corporate Services and City Clerk or their delegates.

“Enactment of Zoning By-law Amendment” means the date of passage of the zoning by-law affecting the lands that are the subject of the development charge; or, in the event of a Local Planning Appeal Tribunal (LPAT) decision, the date of the final LPAT order.

“Site Plan Application Date” means the date an application for approval of a development in a site plan control area under subsection 41 (4) of the *Planning Act* is accepted.

“Site Plan Approval Date” means the date the Commissioner of Planning and Building or Council approve the site plan application.

“Zoning By-law Amendment Application Date” means the date an application for an amendment to a zoning by-law passed under Section 34 of the *Planning Act* is deemed complete.

General Legislative Framework

On January 1, 2020, changes to the *Development Charges Act, 1997* (DCA) that altered when Development Charges (DCs) are calculated and collected came into effect. This includes “freezing” of DC rates at an earlier stage in the planning process, pursuant under Section 26.2 of the DCA, and “deferral” of DC payments for certain types of developments, pursuant under Section 26.1 of the DCA. The same legislation allows the City to charge interest on these “frozen” (i.e. locked-in) DC rates and “deferred” DC payments. This interest rate is effectively an indexing rate for the period of time the DC rates are frozen.

Interest Rates

The DC freeze interest rate(s) will apply to locked-in DC rates for applicable development applications made on or after January 1, 2020 as permitted by Section 26.2 (3) of the DCA.

The DC deferral interest rate will apply to DCs for eligible rental housing, institutional developments and non-profit housing, as permitted by Section 26.1 (2) of the DCA.

Interest Rate Type	Annual Interest Rate Effective January 1, 2020
As pursuant under Section 26.2 of the DCA DC Freeze Interest Rate	5.5%
As pursuant under Section 26.1 of the DCA DC Deferral Interest Rate	0%

Interest rates and this policy will be reviewed annually, or in conjunction with Mississauga's Development Charges By-law review, and may be amended with Council approval.

Development Charges Freeze Rates and Interest Payments

Determination of DC Freeze Rates

For eligible applications made on or after January 1, 2020, DC rates will be locked-in at the DC rates in effect at the time of Site Plan Application Date or, in the absence of a site plan application, the Zoning By-law Amendment Application Date. If the requirement of either of these applications is absent, DCs continue to be determined at DC rates in effect at building permit issuance. In the event that a development has been subject to more than one site plan application or zoning by-law application, the later application date will determine the date at which the DC rates are locked-in.

Building permit issuance must occur within two years of the applicable Site Plan Approval Date or Enactment of Zoning By-law Amendment; otherwise DCs are calculated at the DC rates in effect at the time of building permit issuance.

DC Freeze Interest Payment Calculation

The interest payment on frozen DC rates will be calculated based on the period of time between the date the DC rates are frozen to the DC payable date, at the annual interest rate as outlined in this policy.

For developments that do not qualify for a DC deferral, when both the development charges and associated interest payment are paid in full within two weeks of the DC payable date set out in the development charge invoice, no additional interest charges will accrue. DCs and associated interest payment will continue to be due at building permit issuance.

In the event that the DC freeze interest rate is amended by Council, the new interest rate shall apply to the period of time from the interest rate amendment to the DC payable date, or a subsequent amendment to the interest rate.

Other Matters

With respect to a development that has qualified for a DC freeze and is eligible for deferral under Section 26.1 of the DCA, the full DC freeze interest payment will be payable at the same time as the first instalment of a DC deferral payment schedule.

For a development that has qualified for a DC freeze and with DCs payable before the date of Council approval of this policy, an interest rate of zero percent per annum will be applied.

Development Charges Deferral Instalments and Interest Payments

Determination of Deferral Eligibility

Deferral eligibility will be verified as part of building permit application review exercises, in accordance with the criteria outlined under Section 26.1 (2) of the DCA. The applicant shall also enter into a Development Charges Payment Agreement with the City that outlines the payment schedule and terms.

Deferral Period and Number of Instalment Payments

For DC deferral payments, the first instalment payment will begin on the earlier of the date of the issuance of a permit under the *Building Code Act, 1992* authorizing occupancy of the building and the date the building is first occupied, unless an earlier date is agreed to in a Development Charges Payment Agreement. Unless a different payment schedule has been agreed to, the following will apply: for eligible rental housing and institutional developments, DC deferral instalment payments will continue for five subsequent anniversary dates after the initial DC deferral instalment payment (6 instalment payments in total). For non-profit housing, DC deferral instalment payments will continue for 20 subsequent anniversary dates after the initial DC deferral instalment payment (21 instalment payments in total).

DC Deferral Interest Payment

Interest on deferred DCs will be calculated and paid at each instalment payment. Interest will be equal to the outstanding principal balance of DCs owing from the date the development charge would have been payable, calculated at the DC deferral per annum interest rate.

The deferral interest rate in effect at the time of executing the Development Charges Payment Agreement will be the interest rate in effect for the full deferral period, even if the DC deferral interest rate is amended by Council within the deferral period.

Notice of Occupancy

Unless the City issues an occupancy permit under the *Building Code Act, 1992*, the person responsible to pay development charges shall notify the City, in writing, within five business days of the building first being occupied and provide payment of the first DC deferral instalment.

Failure to comply with the occupancy notice requirement will result in full payment of development charges, including any interest, becoming payable immediately.

Other Matters

If part of a mixed-use development does not qualify for a deferral under Section 26.1 (2) of the DCA, DCs relating to those uses shall be paid in full at building permit issuance.

Where a development is eligible for DC deferral payments, as permitted under Section 26.1 of the DCA, but the developer chooses to pay the full amount of the DCs owing at the time of building permit issuance, the applicant will enter into a Development Charges Prepayment Agreement in lieu of a Development Charges Payment Agreement.

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Unpaid Development Charges

Any DCs or interest payments, in full or in part, that remain unpaid after their due date, shall be added to the tax roll and collected in the same manner as taxes, in accordance with Section 32 of the DCA. Any unpaid DCs or interest charges collected through tax arrears will be transferred into DC reserves.

Revision History

Reference	Description
GC-0040- 2021 – 2021 02 03	Click here to enter text.