

# Policy for the Deferral of Payment of Development Charges & Planning Application Fees within the Urban Centres

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## 1.0 Strategic Plan Linkages

### *Well-Equipped and Managed:*

- Leading the way by creating an environment for extraordinary public service, focusing on fiscal responsibility and sustainability.
- Creating a clear vision of the future and supporting plans and strategies to guide the way.

### *Well-planned and Connected:*

- Planning and managing growth through long-term plans and strategies, supported by short-term action plans.

## 2.0 Purpose

To establish a policy that aims to encourage development through the deferral of payment of Development Charges and *Planning Application Fees* within the Urban Centres. The policy applies to, and is intended to stimulate *mid-rise* and *high-rise*; residential, office and *mixed-use* developments within the Urban Centres Secondary Plan area as identified on Schedule 1.

## 3.0 Definitions

*Alternative Energy* – sources of energy or energy conversion processes that significantly reduce the amount of harmful emissions to the environment (air, earth and water) when compared to conventional energy systems and includes co-generation facilities.

*Building Permit* – means the building permit issued for the construction of the building including the below ground foundations and parking structures.

*High-rise* – means permitted development that is 12 storeys or more in height.

*Mid-rise* – means permitted development that is 5 to 11 storeys in height.

*Mixed-use* – Development that includes two or more different uses (e.g. residential, commercial, cultural and/or institutional) in a single building.

*Planning Application Fees* – fees required for an Official Plan Amendment, Secondary Plan Amendment, Zoning By-law Amendment, Plan of Subdivision, Plan of Condominium and Site Plan.

## 4.0 Area of Application of the Policy

The policy applies to development within the Yonge Street and Davis Drive Urban Centres, as shown on Schedule 1.

## 5.0 Background and Legislative Authority

### 5.1 Deferral of Payment of Development Charges

Section 27(1) of the Development Charges Act provides for the legislative authority to provide municipalities with flexibility regarding when development charges may be paid as follows:

“A municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable.”

As per the Town’s Development Charges By-law (By-law 2009-73), Development charges are payable at the time of issuance of the *Building Permit*.

In addition, the Town’s Development Charges By-law provides that: “...Council from time to time, may enter into agreements providing for all or any part of a Development Charge to be paid before or after it would otherwise be payable.”

## **5.2 Deferral of Payment of Planning Application Fees**

Section 69(2) of the *Planning Act* provides municipalities with the flexibility to reduce or waive tariffs or fees associated with the processing of planning applications (i.e. *Planning Application Fees*) where the Council or applicable planning committee is satisfied that it would be unreasonable to require payment in accordance with the tariff.

## **6.0 Deferral Programs**

Two programs are provided:

1. Standard Approach for the Deferral of Development Charges; and
2. Enhanced Development Criteria Based Approach for the Deferral of Development Charges and *Planning Application Fees*.

### **6.1 Standard Approach for the Deferral of Development Charges**

1. This program provides for the deferral of 100% of the Town’s Development Charges for both *mid-rise* and *high-rise* developments, which include residential, office or *mixed-uses*.
2. The deferral shall be dependent upon the developer providing a Letter of Credit to the Town at the time of the *Building Permit* issuance to secure payment of the Town’s Development Charges.
3. The deferral is in effect for a period of 36 months from the earlier of the issuance of the *Building Permit* or registration of the condominium.
4. The Letter of Credit shall be drawn or the Development Charges shall be paid on or before the date that is equivalent to the earlier of the 36 months after the issuance of the *Building Permit* or registration of the condominium.

### **6.2 Enhanced Development Criteria Based Approach for the Deferral of Development Charges and *Planning Application Fees***

1. This program provides for the deferral of 100% of the Town’s Development Charges and 50% of the *Planning Application Fees* for both *mid-rise* and *high-rise* developments, which include residential, office or *mixed-uses* that meet the Development Criteria of Section 6.2.1.

2. A Letter of Credit for the deferred Development Charges and the deferred portion of the *Planning Application Fees* will not be required to secure deferred charges or fees for development that meets the Development Criteria of Section 6.2.1, however a Deferral Agreement is required to be entered into with the Town setting out parameters to ensure the Town's financial security.
3. The deferral of Development Charges and *Planning Application Fees* shall be in effect for a period of 48 months from the earlier of the issuance of the *Building Permit* or registration of the condominium.
4. All charges and fees shall be paid on or before the date that is equivalent to the earlier of 48 months after the issuance of the *Building Permit* or registration of the condominium.
5. Section 8.7 sets out the application process for this Enhanced Development Criteria Based Approach.

### **6.2.1 Development Criteria**

In order to be eligible for deferral of payment of 100% of Development Charges, 50% of *Planning Application Fees* and the waiving of the Letter of Credit under the Enhanced Development Criteria approach, the following Development Criteria must be met.

- i) The proposed development complies with all applicable provisions of the Provincial Policy Statement, Regional Official Plan, Town Official Plan, and the Urban Centres Secondary Plan, including but not limited to: urban design, housing affordability and sustainability.
- ii) The mandatory and applicable optional provisions of the Site Plan Approval Process Manual and Development Standards Checklist (March 25, 2008, as amended).
- iii) The proposed development participates in the Region's Sustainable Development through LEED® Incentive Program (LEED).
- iv) The proposed development implements a three stream waste collection system.
- v) For developments within the *Provincial Urban Growth Centre*, it is demonstrated to the satisfaction of the Town that a minimum of 35% of new housing units within the development are affordable to *low and moderate income households*.
- vi) For developments outside of the *Provincial Urban Growth Centre*, it is demonstrated to the satisfaction of the Town that a minimum of 25% of new housing units within the development are affordable to *low and moderate income households*.

## **7.0 Deferral Schedule**

### **7.1 Development Charges Deferral Schedule**

1. The Letter of Credit required under Section 6.1.2 shall be drawn or the Town's portion of the Development Charges shall be paid on or before the earlier of 36 months after the date of the issuance of the *Building Permit* or registration of the condominium.

2. In the event that an appeal of a Planning Application is filed by the applicant at any time before or after the decision of Council and is subject to a final decision by the Ontario Municipal Board, Local Planning Appeal Tribunal or by the Courts, such Planning Application(s) may not be eligible for the deferral of Development Charges as set out under Section 6.1 and 6.2. Eligibility for deferral of Development Charges shall be at the sole discretion of Council.

## **7.2 Planning Application Fees Deferral Schedule**

1. For *Planning Application Fees*, 50% of the *Planning Application Fees* shall be payable at the time of the planning application(s). The remaining 50% shall be payable the earlier of 48 months after the issuance of the *Building Permit* or registration of the condominium, unless:
  - the application does not meet the eligibility criteria and is refused by Council or it's designate;
  - the planning application is appealed by the applicant at any time before the final decision on the planning application(s); or
  - a *Building Permit* is not issued within 48 months of the final approval of the respective planning application(s).
2. Where a decision is made by Council or it's designate that the Development Criteria contained in Section 6.2.1 are not met or the planning application(s) is refused or appealed, the remaining 50% of the application fees shall be paid to the Town within 14 days of the decision.
3. If the Development Criteria of Section 6.2.1 are not demonstrated to be met, or are no longer proposed to be met at the time of the Building Permit, the Deferral of Development Charges will be subject to the terms of Section 6.1, including the provision for a Letter of Credit.
4. In the event an appeal is filed by the applicant any time before the final decision on the planning application(s), the deferred *Planning Application Fees* shall be payable, with applicable interest, on the date of the appeal.
5. If a *Building Permit* or registration of the condominium is not obtained within the earlier of 48 months from the final approval of the respective planning application(s), the deferred portion (the remaining 50%) of the *Planning Application Fees*, with applicable interest shall be paid to the Town within 14 days of final approval of the respective planning application(s).

## **8.0 Procedures**

### **8.1 Effective Date of the Policy**

1. This policy comes into effect and will apply to all eligible applications from the date of the approval of this policy by Council. The policy applies to all eligible applications that, prior to the date of approval of the policy, had not paid their *Planning Application Fees* or Development Charges.
2. The *Planning Application Fees* shall be the fees in effect at the time of the filing of the planning application(s).
3. The Development Charges shall be the charges in effect at the time of the issuance of the *Building Permit*.

## **8.2 Development Charges Prepayment Agreement**

1. In the event that Development Charges are scheduled to increase, developers of *mixed-use* high-rise residential development may prepay their Development Charges at the prevailing rate, prior to the issuance of the *Building Permit* on the basis of the following schedule:
  - 25% of the Development Charges shall be paid prior to the issuance of the *Building Permit* and before the date of the scheduled rate increase;
  - the remaining 75% shall be secured through a Letter of Credit and subject to a prepayment agreement to the satisfaction of the Director of Financial Services;
  - if the *Building Permit* is not issued within 18 months of the scheduled increase of the Development Charges, the developer will be subject to the prevailing rate on the effective payment date;
  - the prepayment agreement will be subject to a \$1,000 administration fee, plus applicable taxes.

## **8.3 Interest Rate**

1. Interest on the deferred fees will be charged under the Standard Approach for the Deferral of Development Charges program under 6.1; however interest will not be charged under the Enhanced Development Criteria Based Approach under 6.2.
2. Where interest is charged under the Standard Approach for the Deferral of Development Charges program under 6.1, it will be applied at a rate of Prime plus 1.0%.
3. In the event that the deferred payments are not received in accordance with the Deferral Schedule set out in Section 7, interest will be charged on the basis of the interest rate applied to defaulted taxes in effect at the time of the failure to pay and applied from the time that the charges/fees were originally payable.

## **8.4 Security Obligations**

1. Securities in the form of a Letter of Credit will be required for the deferral of the Town's Development Charges addressed under Section 6.1.
2. Securities in the form of a Letter of Credit will not be required for the Town's portion of the Development Charges or for the deferred *Planning Application Fees* in accordance with and subject to the provisions of Section 6.2 (the Enhanced Development Criteria Based Approach to Deferral of Development Charges and Planning Application Fees).
3. The deferral of payment of Development Charges will be implemented in conjunction with the Regional Development Charges Deferral Policy. This policy does not supersede or affect the Region's policy or ability to secure their portion of the Development Charges.
4. In the event of default of payment at the prescribed schedule time as set out in Section 7, the Town will secure its deferred fees, including the interest referred to in Section 8.2.2 through the applicable provisions of the Municipal Act.

5. Other securities required through the planning application process(s) shall not be released or reduced until the Town has received payment of all deferred charges and fees deferred through this policy.

### **8.5 Deferral Agreement**

1. A deferral agreement shall be required for the deferral of the Town's portions of the Development Charges and *Planning Application Fees* described under Sections 6.1 and 6.2 and may include the terms and conditions required by the Treasurer.
2. An application for Deferral of Development Charges shall be filed with the Treasurer the earlier of 60 days prior to the filing of the Building Permit or registration of the condominium.
3. In the event that the deferral agreement is ready to be executed, or a *Building Permit* is ready for issuance for an applicant that qualifies for a deferral, but the deferral agreement is not executed and/or registered on land title, the applicant will be required to pay the Development Charges in full or secure the payment with a Letter(s) of Credit. Subsequent to the execution of the deferral agreement and its registration on title, the Town will refund the amount of the Development Charges deferred that were paid or release the Letter of Credit for the deferred amount to the applicant, without interest.

### **8.6 Deferral Agreement Fee**

1. The costs incurred by the Planning, Legal and Finance Departments for the administration, review, preparation and execution of the deferral agreements shall be subject to fee of \$5,000 plus applicable taxes, and payable at the time of execution of the deferral agreement.

### **8.7 Application Process for the Enhanced Development Criteria Based Approach**

1. The applicant shall provide notice of intention to file for Deferral of Payment of *Planning Application Fees* and Development Charges as part of the pre-consultation process.
2. A complete application for deferral shall be filed with the Treasurer and the Director of Planning and Building Services a minimum of 30 days following the final pre-consultation meeting.
3. A complete application package shall include the following:
  - demonstration and supporting documentation that the proposed development meets the Development Criteria, as applicable, set out in Section 6.2.1;
  - a plan showing the land area being developed (hectares/acres) confirmed by a survey or Certificate of a Surveyor;
  - the density, height and number and type of units (for residential) and the gross floor area (for non-residential) of the proposed building(s); and
  - the proposed use of the building(s).
4. Upon receipt of the planning application package and supporting documentation, a review will be conducted by the Town to determine if the documentation required for the demonstration of satisfying the Development Criteria of Section 6.2.1 have been submitted for consideration through the planning process.



5. Where the application includes the documentation regarding the Development Criteria, the Town will proceed to process the application and a Deferral Agreement will be prepared for the deferral of the *Planning Application Fees*.
6. If the request does not include documentation demonstrating compliance with the Development Criteria, the Town will advise the applicant of the deficiencies.
7. In the processing of the planning application in the normal manner and where the Town determines that the application meets the Development Criteria set out in Section 6.2.1, the planning application will be forwarded to Council for final approval, refusal or approval with conditions.
8. Where Council or its delegate, approves the planning application, the deferral of the *Planning Application Fees* will remain deferred the earlier of 48 months after the *Building Permit* is issued or registration of the condominium.
9. In accordance with Section 7.2.1, the deferred *Planning Application Fees* shall be payable in advance of the 48 months after the *Building Permit* is issued where:
  - the application does not meet the eligibility requirements and is refused by Council or it's designate;
  - the planning application is appealed by the applicant at any time prior to the final decision on the planning application(s); or
  - a *Building Permit* is not issued within 18 months of the final approval of the respective planning application(s).


#### **8.8 Registration**

All agreements shall be registered on title to the property and enforced against subsequent landowners.

#### **8.9 Review of the Policy**

This Deferral of Payment of *Planning Application Fees* and Development Charges Policy will be reviewed every 3 years, or at an earlier time as prescribed by Council.

### Schedule 1

 Urban Centres:

