

Corporate Policy

Development Charges Deferral Policy

Approved by: Council

By-laws: 4949-16 and 4950-16

Replaces: None

Section:

Policy: X-XXX-XXX

Date Approved: XXX, XX, 2020

Last Revision Date:

Scheduled for Review by: Dec. 31, 2021

Policy Statement

The Development Charge Deferral Policy establishes guidelines related to applications for, and the administration and issuance of, development charge deferrals to applicants.

Purpose

This Policy will apply to all landowners, developers and/or builders who apply to the County of Grey for a deferral of development charges application to their proposed development or for equal deferral payments as required by the Development Charges Act. The Policy is intended to assist applicants to proceed with their proposed development and also assist in the provision of services that contribute to a strategic goal of the County, as set out in the County Official Plan (Recolour Grey) and in the County's Community Improvement Plan Program (e.g. affordable housing and accessible housing). An application for approval of a deferral request is required in accordance with this Policy unless a deferral meets the requirements as per Section 26.1 of the Development Charges Act.

Scope

The County has, from time to time, approved applications for development charge deferral. The rationale for requesting a deferral has varied over the years, however, a set of principles can be developed from Council's previous approvals in order to streamline the deferral request process.

Development charges are calculated and collected on land and structures being developed in accordance with the Development Charges Act, and the County of Grey's Development Charges By-laws. The collection of development charges typically occurs at the issuance of a building permit. Section 27(1) of the Development Charges Act allows for the deferral of development charges beyond the timeline stipulated in the County of Grey's Development Charges By-laws.

The roles and responsibilities outlined in this Policy will be subject to the best practices of the corporation. If a development meets the eligibility criteria outlined in this Policy or meets the required provisions for a deferral outlined under the Development Charges Act, then a deferral agreement will be entered into and the Director of Corporate Services and Director of Planning

can approve such agreements. A deferral request that does not meet the eligibility requirements outlined under this Policy would be subject to the approval of Council.

Council has approved in the past development charge deferral requests for several development projects that were providing more affordable/attainable housing options as well as developments that were providing housing units that met the accessibility standards of the Accessibility for Ontario Disabilities Act (AODA). These past approvals have helped to shape the eligibility requirements outlined in this Policy.

The Province also passed changes to the Development Charges Act that came into effect January 1, 2020 that requires municipalities to defer development charges for purpose-built rental housing, non-profit housing and institutional developments. The County's Development Charges By-laws currently only applies to residential development and wind turbines. The County's Development Charges By-laws also exempts rental housing and non-profit housing units (pending Council's approval). Therefore, the required deferrals under the updated Development Charges Act would not apply to the County's Development Charges (pending Council's approval).

In order to consider other deferrals beyond the proposed exemptions or beyond the required deferrals in the updated DC Act, this Policy identifies eligibility requirements for the deferral of development charges for other types of development.

1. Housing units that meet the Accessibility for Ontarian Disabilities Act standards. Any housing units that meet the AODA standards would be eligible for a County DC deferral until time of occupancy.
2. Other rental developments that would not be eligible for an exemption under the County's Development Charge By-laws.
3. Any new condominium apartment developments or life lease developments.

For developments that meet the deferral criteria identified in the policy, a deferral agreement would be required which would need to be registered on title. It is recommended that the Director of Corporate Services and the Director of Planning be delegated the ability to sign a deferral agreement that meets the criteria identified in the DC Deferral policy. If a DC deferral request is received that does not meet the criteria in the DC Deferral policy, Council could still consider these requests subject to Council's approval.

Council has the ability to charge interest on the funds deferred. Interest is normally charged in order to reflect the interest lost due to the funds not being in a reserve account. Interest rates will be charged in accordance with the County's Development Charges By-laws as well as in accordance with the Development Charges Interest Rate Policy.

1.0 Policy Statements

1.1 Eligibility Requirements

- a) Development charge deferrals may be available for the following:
 - i) Accessible Housing Units – housing units that will meet the Accessibility of Ontarians Disabilities Act (AODA) standards.

- ii) Other residential rental developments that would not be eligible for an exemption as per the County's Development Charges By-laws
- iii) Any new condominium apartments or life lease developments.
 Condominium apartment buildings means development of a building or structure with four or more condominium dwelling units.

 Life-lease developments are where a tenant can either lease a unit within a development or lease land within a development for either the life of the tenant(s) or a specified period of time. The tenant could either lease the unit, or own the unit and lease the land upon which the unit is located.
- b) Notwithstanding the above criteria, the Director of Corporate Services and the Director of Planning can approve other deferral requests that meet the general intent of the Development Charges Deferral Policy.
- c) Notwithstanding the above criteria, if there is a strategic and significant direct economic benefit to Grey County from the proposed development, the Director of Corporate Services and the Director of Planning can recommend a deferral of the development charges to Council. Determination of the strategic and significant direct economic benefit is at the discretion of the Director of Corporate Services and the CAO.
- d) Applicants for a deferral of development charges must comply with all the conditions that are determined as necessary for development (e.g. Planning Act, etc.), agree to any other conditions imposed by the Director of Corporate Services on the deferral authorization and enter into an agreement with the County, which agreement shall be registered on title.
- e) The requirements outlined in this document are applicable to all DC Deferral applications received on or after the date that this Policy becomes effective. Deferrals previously granted will be 'grandfathered' under the terms and conditions under which they were approved.

1.2 Applicable Development Charge Rates

- a) In order to ensure that the County does not collect an amount less than the initial payment due, development charges deferred shall be payable in accordance with the deferral agreement executed with the County and shall be based on the rate in effect at the time of building permit issuance plus applicable interest compounded until time of payment. Payment of the deferred development charges and the interest rate applied to the deferral will be in accordance with the County's Development Charges Interest Rate Policy. Payment of the deferred development charges will be due upon the earlier of the following occurring:
 - i) Upon issuance of the first occupancy permit; or
 - ii) Upon occupancy of the first unit; or
 - iii) To a maximum of 5 years from building permit issuance
- b) For development charge deferrals required by the Development Charges Act, the interest rate will be in accordance with the County's Development Charges Interest Rate Policy.

1.3 Approval Authority

- a) Approval of a deferral shall be obtained prior to the normal trigger for an applicant paying development charges on the proposed development (e.g. prior to building permit being issued for commencement of construction)
- b) Notwithstanding the eligibility requirements outlined in this Policy, a deferral request may be refused by the Director of Corporate Services and Director of Planning if the net development charge reserve balance is in a deficit.
- c) For developments that meet the eligibility requirements in this Policy or the eligibility requirements under the Development Charges Act, the Director of Corporate Services and Director of Planning can approve the deferral request and execute the deferral agreement if:
 - i) The deferral request does not exceed \$2 million (at the time of the approval); and,
 - ii) The deferral does not exceed 5 years or in the case of required deferrals under the Development Charges Act the deferral period in accordance with the Act.

1.4 Security/Financial Obligations

- a) An applicant may need to secure the deferred development charge by way of a letter of credit or securing the charge with a mortgage, in an amount and form satisfactory to, and at the discretion of, the Director of Corporate Services. The letter of credit will be held until such time as the development charges are paid to the satisfaction of the County. The value of the letter of credit shall be based on the estimated development charges due over the term of the deferral (i.e. development charge rate at the time of building permit issuance plus applicable interest).
- b) The applicant may be required to include the estimated indexed development charges deferred in any vendor take back mortgage for the unit(s).
- c) If the DC's are not paid in full, the County can then draw against the letter of credit. Any remaining DC payment that is still owed to the County can then be applied to the property taxes by requesting to the local municipality that the amount be added to the property taxes.

1.5 Terms and Conditions of Approval

- a) The Director of Corporate Services and Director of Planning may impose such additional terms and conditions in the deferral agreement as are reasonable, in his/her discretion.

1.6 Applicable Process

- a) The applicant shall forward a complete application package to the director of Corporate Services or Director of Planning for a partial or full development charge deferral, a minimum of 60 days prior to the expected date of building permit issuance.
- b) A complete application shall include the following:
 - i) The reason/criteria for the deferral request;
 - ii) Evidence of compliance with the eligibility criteria as outlined in this Policy or the Development Charges Act;

- iii) The legal description of the land being proposed for the development;
 - iv) The number and type of residential units; and
 - v) Any other additional materials as requested by the Finance Department.
- c) Subject to receipt of the application package, including any additional materials requested by staff, a review will be conducted by the Finance Department and Planning Department, and the Director of Corporate Services and Director of Planning will make a decision to approve or deny the deferral request in accordance with this Policy.
- i) If the request complies with the Policy and falls within the Director of Corporate Services and Director of Planning's approval authority, the Directors may approve the deferral, subject to the requirements of this Policy and any additional terms and conditions as deemed appropriate by the Directors;
 - ii) If the request does not comply with the Policy, the Directors will refuse the applicant and advise the applicant accordingly;
 - iii) If the request falls outside of the Policy criteria but the rationale provided by the applicant is on that merits further consideration, staff will prepare a report to Council with an appropriate recommendation.
- d) Deferral Agreement – if the deferral request is approved, an agreement will be prepared to include the terms and conditions required by the Director of Corporate Services and the Director of Planning and to secure payment of the deferred charges
- e) In the event that 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 title to the land, the applicant will be required to pay the development charges in full or secure the payment with letters of credit. Subsequent to the execution of the deferral agreement and its registration on title, the County 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.

2.0 Roles and Responsibilities

2.1 Finance Department and Planning Department

- a) Future updates to this Policy.
- b) Determining whether a request meets the deferral criteria.
- c) Notifying the local municipality when a deferral request has been approved and providing the local municipality with a copy of the deferral agreement which will outline the payment plan and when payments are due.
- d) Assisting local municipalities with the calculation of the development charges due on the proposed development should any questions arise.
- e) Requesting Council approval for DC Deferrals that do not comply with the Policy or that are refused and appealed.
- f) Ensuring the preparation of the deferral agreement in conjunction with the Clerks Department

- g) Overall administration of the deferral agreements and letter of credit(s)
- h) Determining the amount to be secured by letter of credit, if necessary.
- i) Ensuring that the instalments and final DC payments are remitted by local municipalities as per the agreement.

2.2 Director of Corporate Services and Director of Planning

- a) Making a decision on applications for a deferral in accordance with this Policy.
- b) Determining, in his/her sole discretion, the length of the deferral, the quantum and frequency of interim payments as well as the DC rates to be paid when due, as per this Policy.

2.3 Clerks Department

- a) Prepare the deferral agreement
- b) Register the deferral agreement on title.
- c) Ensure that deferral is adequately secured in a form satisfactory to the Director of Corporate Services.

2.4 Legal Services

- a) Advise the Finance Department, the Director of Corporate Services, the Director of Planning, and the Clerks Department on the drafting, securing, and registration on title of the deferral agreement.

Forms

To be created as needed.