



The Corporation of the City of Cornwall
Regular Meeting of Council
Report

Department: Financial Services
Division: Finance
Report Number: 2020-348-Financial Services
Prepared By: Tracey Bailey, General Manager
Meeting Date: November 23, 2020
Subject: Development Charges Interest Policy

Purpose

To introduce and establish a Development Charges Interest Policy in response to changes to the *Development Charges Act, 1997*, introduced through Bill 108, *More Homes, More Choice Act, 2019*, as amended by Bill 138, *Plan to Build Ontario Together Act*.

Recommendation

1. That Council approve the charging of interest pursuant to sections 26.1 and 26.2 of the Development Charges Act, 1997:
 - a. effective as at January 1, 2020,
 - b. at a rate of Bank of Canada Prime Rate plus 3% compounded annually
2. That the General Manager, Planning, Development and Recreation, and the General Manager, Financial Services and Treasurer, be authorized to execute agreements related to the administration of any imposed Development Charges By-law; and
3. That Council approve the Development Charges Interest Policy (attached), to administer the charging of interest as outlined in Recommendation 1 and 2.

Financial Implications

Development Charges (DCs) are a source of funding for growth-related capital infrastructure. The premise with DCs is that growth should pay for growth related costs so that these costs are not paid by taxpayers.

Changes to the *Development Charges Act, 1997 (DCA)* came into effect on January 1, 2020. The changes to the *DCA* impact the way municipalities are to calculate and collect DCs. This will have a financial impact to the City both from a cash flow and total DCs collected perspective.

While the changes to the *DCA* may create financial and administrative costs to the City, the legislation provides a mechanism to recover some of these costs. By including an interest component when administering the locked-in (frozen) and deferred payments, the City will mitigate some of the cost being passed on to future development due to the delay in DC payment.

In the absence of a policy to permit the City to recover interest costs on frozen DC rates and deferred payment agreements, the change in timing of calculation and collection will lead to a shortfall in the DCs collected as compared to the cost of the capital infrastructure required.

The proposed policy will help the City to mitigate the potential negative impacts and ensure that the new freezing and deferred payments provisions promote development in our community without placing undue financial burdens on existing taxpayers. It will also encourage development to proceed in a timely manner because interest will continue to accrue until a developer acquires a building permit.

The legislation does not prescribe how the interest rates are to be calculated and therefore municipalities can determine what rate should be applied; such as:

- Bank of Canada Prime Rate plus a percentage mark-up
- Non-residential Construction Price Index plus a percentage mark-up
- Borrowing rate on a 20-year loan plus a percentage mark-up
- Interest rate based on an investment instrument such as the interest rates being received on the One Investment Savings Account plus a percentage mark-up
- The same interest rate as per outstanding property taxes and utility bills or 1.25% per month or 15% per year.

In order to try to simplify the interest rate to be applied to DC rate freezes and deferrals, City staff are recommending a fixed rate over the Bank of Canada

Prime Rate to provide transparency and cost certainty to developers and to help reduce the administrative burden to municipal staff.

Any interest collected through rate freezes and DC deferral payment plans would be added to the Development Charges Reserve fund to offset any potential loss in revenue as a result of these rate freezes and deferred payments.

Background / Discussion

The changes made to the *DCA* were introduced by both Bill 108 - *More Homes, More Choices Act* and Bill 138, *Plan to Build Ontario Together Act*.

Bill 108, *More Homes, More Choice Act* received Royal Assent on June 6, 2019. This Bill amends 13 different statutes that impact municipalities and land use planning processes. Among these changes are provisions that change the date at which the DCs are calculated as well as provisions that require municipalities to defer collection of DCs.

Bill 138, *Plan to Build Ontario Together Act*, received Royal Assent on December 10, 2019. Bill 138 amended some of the changes to the *DCA* and the *Planning Act, 1990* that were made by Bill 108, by limiting the types of development that would be eligible to pay DCs in annual installments to rental housing, institutional, and non-profit housing developments. Commercial and industrial development are no longer eligible to pay DCs in annual installments.

Freezing of Rates

Prior to Bill 108, DC's were calculated and charged at the prevailing rates at the time of building permit issuance. DC rates are now to be frozen at the site plan or zoning bylaw application date, whichever application is later. The rate freeze only applies to applications submitted after January 1, 2020. Once an application is approved, building permit issuance must occur within two years to maintain the frozen rate. If the two-year period elapses, the prevailing DC rates in effect at the time the permit is issued will be applied.

DC rate freezes will only apply when the City's DC rate changes as per the annual indexing scheduled for January 1, 2021 and therefore staff anticipate that rate freeze payments will begin to apply starting next year.

Phased Payments – DC Deferral

Under Bill 108, as amended by Bill 138, rental housing and institutional development can now defer DC payment to six (6) equal annual installments. For non-profit housing developments, DCs are to be made over 21 equal annual installments.

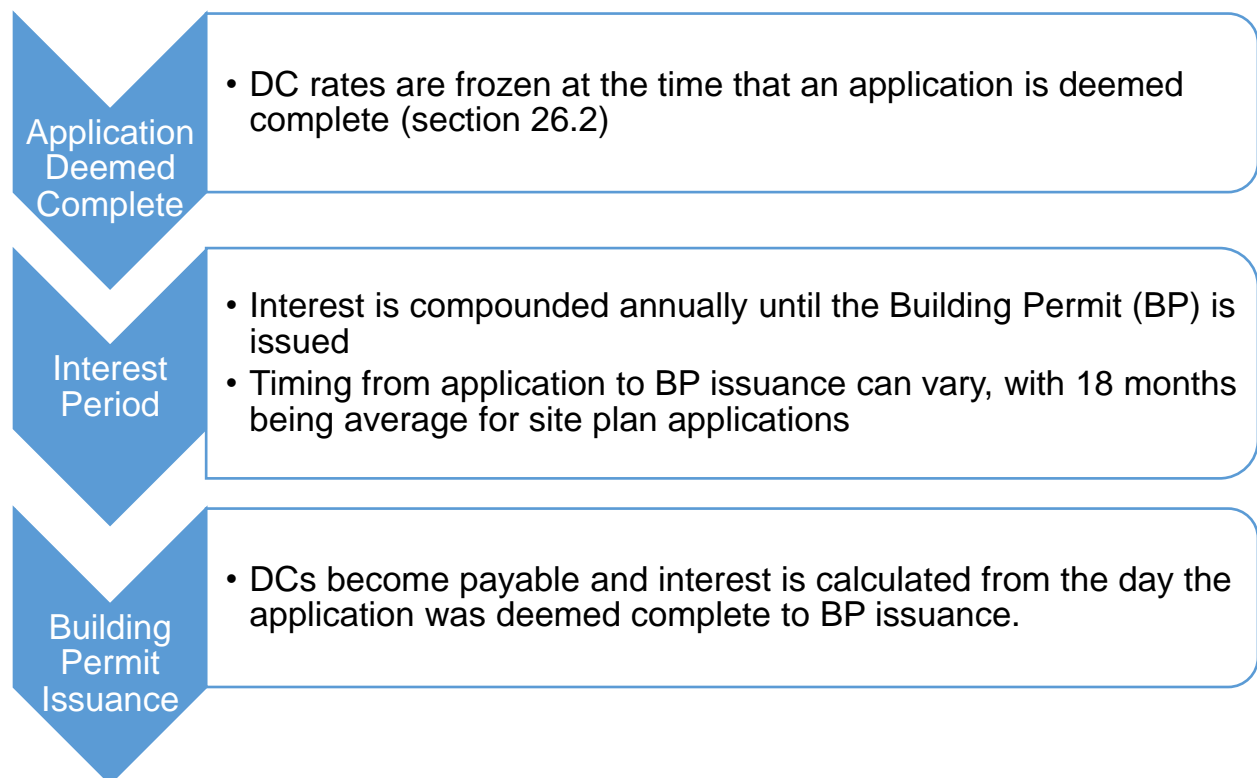
The first payment for these deferral plans would be due at the date of an occupancy permit being issued by the municipality or the date the building is first occupied, whichever comes first.

The City has received an application where the development qualifies for the statutorily required installment payments under section 26.1 of the *DCA*.

Charging Interest on Frozen and Deferred DCs

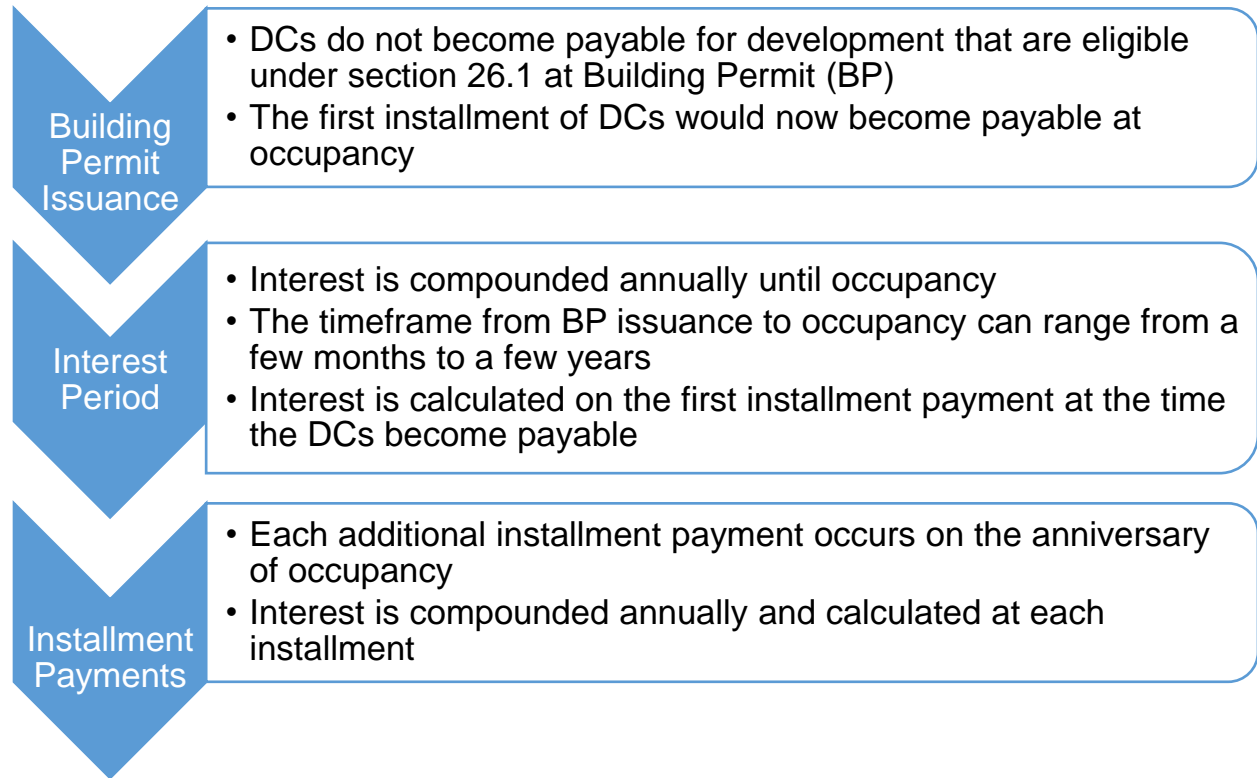
The *DCA* allows municipalities to charge interest on rate freezes and payment plan installments.

When an application is received and considered to be deemed complete, DC rates are frozen to the presiding rates at the time as per section 26.2 of the *DCA*. When a building permit is issued, and DCs become payable, interest will be calculated and compounded annually for the DCs that have become payable. This process is illustrated, as follows:



If an applicant is eligible under section 26.1 of the *DCA* to defer DCs and make payments in installments, the first payment becomes due at the time that the building receives occupancy. Interest is calculated and compounded annually on the installment payment back to the date the application was deemed complete and the DC rates were frozen. Each subsequent installment is payable at the

annual anniversary of building occupancy and interest is calculated compounded annually for each subsequent installment. This process is illustrated, as follows:



Neither the updated *DCA* nor the accompanying regulatory framework prescribes how a municipality should implement this interest charge. The regulatory framework does not prescribe a maximum interest rate that a municipality may charge, and the province has indicated that it does not intend to prescribe a maximum rate.

The most transparent methodology to allow municipalities to communicate the interest rate to be charged is to formally adopt a DC Interest Policy. The interest rate would be published on the City's website, and updated every six months (June and December of each year) based on the Bank of Canada Prime rate.

In order to help expedite the execution of agreements related to the administration of any imposed Development Charges By-law, it is recommended that authorization be given to the General Manager, Planning, Development and Recreation and the General Manager, Financial Services and Treasurer to execute these agreements.

Document Title:	Development Charges Interest Policy - 2020-348-Financial Services.docx
Attachments:	- Development Charges Interest Policy.pdf
Final Approval Date:	Nov 18, 2020

This report and all of its attachments were approved and signed as outlined below:

No Signature found

Mark A. Boileau - Nov 18, 2020 - 2:46 PM

Tracey Bailey - Nov 18, 2020 - 4:18 PM

Maureen Adams - Nov 18, 2020 - 4:37 PM