



Municipality of Brighton

Staff Report

Meeting Date: 17 Mar 2025

To: Mayor and Council

Prepared By: Paul Walsh, Director of Planning

Reviewed By: Elana Arthurs, CAO

Department: Planning and Development

Staff Report Number: 2025-37

Subject/Title: Draft Policy - Development Charge Deferral, Prepayment and Interest Rate Policy

Recommendation(s):

1. That Council receive this staff report dated March 17, 2025 regarding the establishment of a policy pertaining to the prepayment or deferral of development charges and any related interest rate the establishment of interest;
2. And that Council accept the draft policy (Attachment #1) for the purposes of receiving comments from the community;
3. And that the policy be brought forward to Council at its next session for consideration of final approval.

Background/Purpose:

In 2019, the Province introduced through Bill 108, More Homes, More Choice Act, 2019, and further amended by Bill 138, Plan to Build Ontario Together Act, 2019, amendments to the Development Charges Act, 1997 which established the rules and practices for charging interest, as permitted under sections 26.1 and 26.2 of the Development Charges Act, 1997. In late 2022, the Province passed further amendments to the Development Charges Act, 1997 through Bill 23, More Homes Built Faster Act, 2022, which prescribed a maximum interest rate to be charged under section 26.3 of the Act. This Policy provides a framework for how the Municipality will levy interest on applicable developments in accordance with sections 26.1, 26.2 and 26.3 of the Development Charges Act, 1997.

The Municipality's recently passed Development Charges By-law No. 015-2025 calls for the Municipality to adopt an interest rate policy. The purpose of this Policy is:

- adopt an interest rate policy for deferred payments as permitted under the DC Act
- to permit deferral of DC payments for developments supplying community benefits
- to require prepayment of DCs for developments that are premature in the Municipality's plans of extension or improvement of infrastructure necessary to support the development.

This policy establishes the rules and practices for deferring development charge payments over time, and the rate of interest to be charged as regulated under sections 26.1, 26.2, and 26.3 of the *Development Charges Act, 1997*.

Section 26.2 (3) of the DC Act, as of January 1, 2020, freezes the DC rate charged to a development based on the application date of a site plan application or a zoning by-law amendment, only where such application is applied for on or after January 1, 2020. This freezing does not apply to developments whose site plan or zoning by-law amendments were applied for before January 1, 2020.

The Municipality is permitted to charge interest on the frozen rate from the date it is frozen to the date of permit issuance. Section 26.3 of the DC Act prescribes the maximum interest rate applicable under Section 26.1 and 26.2.

In addition, Section 27(1) of the Development Charges Act provides municipalities some flexibility for when development charges may be collected:

"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."

Analysis/Comments:

Rental housing and Institutional developments are statutorily prescribed eligibility for deferred DC payments. Deferred payments are subject to interest rates being charged. The DC Act establishes a maximum interest rate that may be applied. The maximum rate is an annual average prime interest rate, plus 1%. The presented policies acknowledge developments that may offer broader community benefits.

Community benefit developments are extended a DC deferral option subject to the same maximum interest rate. Community benefits are described to include the following:

- a. forms of affordable, inclusive and attainable housing as may be defined by the Municipality
- b. mid-rise buildings
- c. mixed use developments contributing to sustainable development standards, such as Leadership in Energy and Environmental Design (LEED)
- d. social infrastructure addressing a demonstrated needs gap
- e. infrastructure improvements demonstrating costs savings to the Municipality
- f. employment developments assisting the under-employed
- g. employment developments introducing high-order skills and knowledge

- h. projects approved through a Community Improvement Plan (CIP) under Section 28 of the Planning Act.

Council is encouraged to issue statements from time to time regarding acceptable Community Benefits projects, as well as the methodology for demonstrating cost-benefit assessments that are required to justify a development as representing a community benefit.

Early repayment of DCs is established as an option for developments subject to deferral.

Prepayments are introduced as an option for developments that represent premature extension of public infrastructure and representing an undue financial impact.

Legal/Legislative:

The recommendations of this report implements municipal discretionary matters where offered in sections 26 through section 27 of the Development Charges Act that are not otherwise addressed by the Municipality's Development Charges By-law No.015-2025.

Financial Implications:

The Development Charges Act has shifted some burden of costs onto the Municipality through deferral of development charges over a period of 6 years for rental housing and institutional development. However, this is mitigated in part through the charging of interest rates (1% over prime) for deferred payments, albeit at a lower rate than has been commonly practiced by some municipalities.

Strategic Plan Alignment:

- Customer Service
- Housing and Supply
- Infrastructure

Attachments:

Attachment #1 – DRAFT Brighton DC Deferral and Interest Rate Policy

Approved by:

Paul Walsh, Director of Planning
Elana Arthurs, CAO

Status:

Approved - 12 Mar 2025
Approved - 12 Mar 2025

Development Charge Deferral, Prepayment and Interest Rate Policy

No. PL XXX	Date	Approval
Originating Approval	March 17, 2025	Council Resolution 25-XXX
Modified		

1. Purpose

The *Development Charges Act* (DC Act) requires municipalities to defer the timing of payment of development charges pertaining to Rental housing development and to Institutional development. The DC Act also gives municipalities discretion to defer payments for other forms of development. In applying deferrals, municipalities may apply an interest rate to the deferred payments, at rates prescribed by the legislation. The policies set out below describe the forms of development that are eligible for consideration for deferred payment and the interest charges to be applied. In addition to the provincially regulated forms of development that are eligible for deferral, some direction is given to preferred forms of development that contribute to broader community benefits, and as such, may be supported for deferred DC payments or charged lower interest rates on the deferred amounts.

Generally, these policies implement sections 3.15 through 3.19, inclusive, of the Municipality's Development Charges (DC) By-law (By-law No. 015-2025). Nothing in these policies should be construed or interpreted as taking precedence over By-law No. 015-2025.

2. Legislative Basis

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) of section 26.2 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%.

2.1. Installment Payments under section 26.1 of the Act:

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

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- i. Rental housing development that is not non-profit housing development
- ii. Institutional development

The first instalment payment at occupancy is followed by five instalment payments on the anniversary date for total of six payments.

2.2. 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 instalments from the date the development charges would have been payable under section 26.3 of the Act to the date the instalment is paid, at a rate not exceeding the prescribed maximum interest rate.

2.3. Development Charge Freeze under section 26.2 of the Act:

Under subsection 26.2(1) of the Act, the total amount of a development charge is determined under the Municipality's Development Charge By-law on:

- i. The day an application for an approval of development under subsection 41(4) of the Planning Act was made, or
- ii. If clause (i) does not apply, the day an application for an amendment to a by-law passed under section 34 of the Planning Act was made.

2.4. 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 clause c(i) or c(ii) of section 26.2(1) of the DC Act, to the date the development charge is payable.

2.5. Maximum Interest Rate under sections 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 the dates as defined in any successor legislation.

Policies:

3. Definitions

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Definitions under the *Development Charges Act, 1997*, S.O. 1997, c. 27 shall apply, and definitions under Municipal By-law No. 015-2025 shall apply, as amended or revised. In addition, the following shall apply:

- 3.1. *Building Permit* – means the building permit issued under the Ontario Building Code for the construction of the building including the below ground foundations and parking structures.
- 3.2. *Community benefit* – means development contributions that exceed regular statutory requirements otherwise expressed by legislation such as parkland dedications, payment of development charges, or delivering required levels of service standards, as may be articulated by the Municipality through policy statements
- 3.3. *Mid-rise* – means permitted development that is 5 to 9 storeys in height
- 3.4. *Mixed-use* – See By-law No. 015-2025
- 3.5. *Institutional Development* - See By-law No. 015-2025
- 3.6. *Non-Profit Housing Development* – See By-law No. 015-2025
- 3.7. *Rental Housing Development* - See By-law No. 015-2025
- 3.8. *Prime Interest Rate*, shall mean the Prime Interest Rate as published on the Bank of Canada's website.
- 3.9. *Social Infrastructure* – means facilities and structures that support community well-being and development, particularly schools, healthcare centers, day cares, libraries, parks, active transportation routes, and community centers

4. Goals

- 4.1. To implement statutory requirements and matters given municipal discretion under the Development Charges Act, 1997, regarding development charge deferrals and interest rates.
- 4.2. To implement discretionary matters of section 27 of the DC Act and sections 3.15 through 3.19, inclusive, of the Municipality's Development Charges (DC) By-law (By-law No. 015-2025).
- 4.3. To encourage development investment in the Municipality in a fashion that advances the provision of community benefits.

5. Objectives

- 5.1. To implement Section 26 (3) of the Development Charges Act pertaining to rental housing developments or institutional developments, in allowing equal annual instalments beginning on the earlier of the date of the issuance of a permit under the *Building Code Act, 1992* authorizing occupation of the building and the date the building is first occupied, and continuing on the following five anniversaries of that date.
- 5.2. To consider deferral of DC payments for developments that supply community benefits.

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6. Area of Application of the Policy

The policies apply to the whole of the Municipality of Brighton.

7. Timing of Payment of Development Charges

Rental housing or Institutional Development:

- 7.1. Rental housing development or Institutional development is eligible for deferral of payment in the form of 6 annual instalments on the date of occupancy in accordance with the DC Act and section 3.17 of By-law 015-2025.

Developments Supplying Community Benefits:

- 7.2. Subject to an agreement with the Municipality, developments supplying community benefits may be given deferral of development charges. Community benefit developments may be considered to include the following:
- a) forms of affordable, inclusive and attainable housing as may be defined by the Municipality
 - b) mid-rise buildings
 - c) mixed use developments contributing to sustainable development standards, such as Leadership in Energy and Environmental Design (LEED)
 - d) social infrastructure addressing a demonstrated needs gap
 - e) infrastructure improvements demonstrating costs savings to the Municipality
 - f) employment developments assisting the under-employed
 - g) employment developments introducing high-order skills and knowledge
 - h) projects approved through a Community Improvement Plan (CIP) under Section 28 of the Planning Act.

Prepayment of Development Charges:

- 7.3. The Municipality may accept or require the prepayment of development charges.
- 7.4. Section 27 of the Act permits the payment of DCs prior to otherwise being due through agreements between municipalities and developers. As such, the following applies:
- a) The owner of a development may pay the full DC owing at building permit issuance versus installments over several years.
 - b) Agreements for payment of development charges at a date earlier than would be permitted pursuant to Section 26.1 of the Act, but after building permit issuance, may also be accepted with accrued interest from building permit issuance date to the date DC's are paid.

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- 7.5. The following shall generally apply to prepayment agreements:
- a) In instances where a development is premature or that would result in an adverse impact on the Municipality's financial well-being, the Municipality may require the development proponent to enter into a DC prepayment agreement prior to considering approval of the development or as a condition to draft approval. In particular, prepayment may be required in order to support infrastructure improvements necessary or desired to service the development.
 - b) A prepayment agreement will be entered into that specifies the portions of the development subject to prepayment, and required time frames for completion of the development.
 - c) In the event that Development Charges are scheduled to increase, proponents of developments supplying community benefits are eligible upon request to be charged the prevailing DC rate (current, pre-updated charge amounts). That is, section 26.2 of the DC Act may apply. Payment will occur at the time of issuance of Building Occupancy Permit, or in accordance with a deferred DC payment agreement.

8. Community Benefits - Development Eligibility Criteria

This program provides for the deferral of 100% of the Municipality's Development Charges in relation to developments supplying *Community Benefits* referenced in Section 7.2 provided the following criterion are met:

- 8.1. Developments have been subject to pre-consultation with Municipal Planning staff.
- 8.2. A Letter of Principal of Land Use has been issued by Municipal Planning Staff indicating that the proposed development is consistent with the Provincial Policy Statement 2024, and the intent of the Municipality's Official Plan, or a Letter of Complete Application Information has been issued.
- 8.3. A financial surety in the form of the Municipality's preference is given to the Municipality for the deferred Development Charges.
- 8.4. A DC Deferral Agreement is entered into with the Municipality.
- 8.5. The deferral of Development Charges shall be in effect for a period of 60 months from the earlier of the issuance of the Building Permit or registration of the development agreement.
- 8.6. All charges and fees shall be paid on or before the date that is equivalent to the earlier of 60 months after the issuance of the *Building Permit* or registration of the development agreement.

9. Applied Interest Rates:

Interest Rates Applicable to General Development

- 9.1. Development Charge Rate Freeze (Section 26.2 DC Act)

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- a) An annual interest rate shall be the maximum interest rate permitted to be charged for any DC rate frozen during the development process.
 - b) The Prime interest rate to be used will be the prime rate in effect on the date the development application was approved. As noted in Subsection 26.2(1) of the DC Act, the rate can be frozen for either:
 - i. Approval of a Site Plan Control application – Subsection 41(4) of the Planning Act, or
 - ii. Passing of a Zoning By-law Amendment - Section 34 of the Planning Act.
 - c) Interest will accrue from the date that a complete Site Plan/ Zoning application has been received until the date that the Development Charge is paid (i.e. building permit issuance for all development not eligible for the deferred payment plans under section 26.2 DC Act). Note:
 - i. a Site Plan Control or Zoning Amendment to be received as of the date that the submitted application is deemed to be complete according to the Planning staff.
 - ii. If a development was subject to both site plan and re-zoning applications, it is the date of the later one that is applicable.
 - d) Payment of interest is to be made in conjunction with the payment for the assessed development charges (i.e. when the building permit is issued for all development except those that are eligible for, and participating in, deferred payment plans under section 26.1 of the DC Act).
 - e) For developments that are eligible for, and participating in, deferred payment plans, the interest (if applicable) accrued from the date of approval (Site Plan Control) or passing (Zoning By-law Amendment) application to the date of the building permit issuance, will be added to the assessed development charges to determine the total development charge to be paid in instalments as set out in Section 26.1 of the DC Act.
 - f) If Section 26.3 of the DC Act is repealed, the applicable interest rate for the purpose of Section 26.1 (7) of the DC Act, will be the Bank of Canada Prime rate plus 2%, fixed at the date of building permit issuance, compounded semi-annually.
- 9.2. Development Charge Deferral (Section 26.1 DC Act)
- a) The maximum interest rate prescribed in the Development Charges Act will be charged for any DC charges deferred in relation to qualifying:
 - i. Rental housing development (that is not considered “non-profit”)
 - ii. Institutional development
 - b) An annual interest rate of 0% will be charged for any DC charges deferred in relation to qualifying Non-profit housing development.
- 9.3. For the purposes of Section 26.2 of the DC Act, effective the date DC Act first required deferred DC payments, the interest rate applied will be the daily maximum interest rate permitted under Section 26.3 of the DC Act. If Section 26.3 of the DC Act is repealed, the applicable interest rate for the purpose of

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Section 26.1 (7) of the DC Act, will be the Bank of Canada Prime rate plus 2%, fixed at the date of building permit issuance, compounded semi-annually.

Interest Rates Applicable to Developments Supplying Community Benefits

- 9.4. Development proponents offering the supply of community benefits may enter into a DC payment deferral agreement implementing policies 7.2. and 8. above, subject to the maximum interest rate prescribed by section 26.3 of the DC Act.

Failure to Pay DC Deferred Installment payments

- 9.5. In the event that the deferred payments are not received in accordance with a deferral payment schedule, 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.

10. Determination of Deferral Applications

- 10.1. Proponents will make written request for DC deferrals consistent with the requirements of the policies stated herein.
- 10.2. Requests for DC referrals based on the basis of providing community benefits will be accompanied by the developer's cost-benefit assessment of community benefits. The Municipality may issue statements from time to time regarding acceptable Community Benefits projects and the methodology for demonstrating cost-benefit assessments.
- 10.3. The extent of DC deferral will be proportionate to the scale of community benefits being supplied based on its contributing floor area, or lot coverage area, as appropriate.
- 10.4. The Planning and Development Department will identify eligibility of a development charge deferral at the time of pre-consultation on a development application or its initial submission.

11. Interpretation

- 11.1. Matters requiring interpretation of the implementation of this policy may be referred by staff to Council for a determination.

12. Registration

- 12.1. Agreements referenced in this policy, or related agreements are required to be registered at the Land Titles registry so as to be binding on current and all subsequent landowners, as may be required.

13. Effective Date

Development Charge Deferral, Prepayment and Interest Rate Policy

- 13.1. Upon approval by Council, this policy shall take effect retroactive to January 1, 2020. This policy may be repealed and/or modified by Council at any time.
- 13.2. The Development Charges shall be the charges in effect at the time of the issuance of the *Building Permit*, or as required through Municipal By-law No. 015-2025.

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