



# Town of Whitby Policy

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<b>Policy Title:</b>	Development Charge Annual Installment Payments Policy
<b>Policy Number:</b>	F 410
<b>Reference:</b>	Council Resolution # 109-20
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<b>Approval:</b>	Council
<b>Point of Contact:</b>	Financial Services Department

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## Policy Statement

A policy governing the installment payments for Town of Whitby development charges as legislated under the Development Charges Act, 1997,

## Purpose

The purpose of this policy is to establish the rules and practices for development charge annual installment payments, as required under section 26.1 of the Development Charges Act, 1997.

This policy establishes the conditions, duration, terms and other requirements in order govern annual installment payments for Town of Whitby development charges.

## Scope

This policy applies to all development as eligible for annual installment payments under section 26.1 of the Development Charges Act, 1997.

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## 1. Definitions

- 1.1. **Act** means the Development Charges Act, 1997, as amended.
- 1.2. **Development Charges** means only the Town of Whitby development charges imposed pursuant to the Development Charge by-law, and does not apply to Region of Durham development charges or school board development charges.
- 1.3. **Institutional Development** for the purposes of this policy only, is defined as per O.Reg 454/19 (or as updated) meaning development of a building or structure intended for the following uses:
- A long term care home within the meaning of subsection 2 (1) of the Long-Term Care Homes Act, 2007;
  - A retirement home within the meaning of subsection 2 (1) of the Retirement Homes Act, 2010;
  - A university in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario;
  - A college or university affiliated with a university described above;
  - An Indigenous Institute prescribed for the purposes of section 6 of the Indigenous Institutes Act, 2017.
  - A memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion.
  - A hospice to provide end of life care
- 1.4. **Non-Profit Housing Development** for the purposes of this policy only, is defined as per O.Reg 454/19 (or as updated) meaning development of a building or structure intended for use as residential premises by:
- A corporation to which the Not-for Profit Corporations Act, 2010 applies, that is in good standing under that Act and whose primary object is to provide housing.
  - A corporation without share capital to which the Canada Not-for-profit Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing.
  - A non-profit housing co-operative that is in good standing under the Co-operative Corporations Act.
- 1.5. **Rental Housing Development** for the purposes of this policy only, is defined as per O.Reg 454/19 (or as updated) meaning development of a building or structure with four or more dwelling units all of which are intended for use as rented residential purposes.

## 2. Responsibilities

- 2.1. The Chief Building Official

- At the time of building permit issuance, the Chief Building Official shall provide, and receive and document acknowledgement of the Acknowledgement Letter (sample included in Appendix 1) to the applicant or property owner of development eligible for a development charge annual installments under section 26.1 of the Act.
- Capture, record and report all occupancy permit dates (if applicable) as they apply to development eligible for a development charge installment schedule.

## 2.2. Commissioner of Financial Services / Treasurer

Administer this policy, including but not limited to:

- Calculating, collecting, managing, monitoring and tracking all development charge installments and installment payment schedules.
- Providing the annual Installment Payment Schedule (sample in Appendix 3), and receiving acknowledgement of the schedule.
- Executing Early Payment Agreements
- Working with Town staff to ensure the policy is administered correctly.

## 2.3. Commissioner of Planning and Development

- Assisting stakeholders during pre-consultation / planning approval meetings in determining eligibility for development charge installment payments under section 26.1 of the Act.
- Provide notice to Treasury and Building of any possible future eligible developments as a result of pre-consultation / planning approval meetings with the developer.
- Report any future change of use applications made under the Planning Act for any existing development charge deferrals / installment payment schedules.

## 3. Legislative Framework

### 3.1. Installment Payments under section 26.1 of the Act and as defined in O.Reg 454/19.

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 occupancy permit under the Building Code, Act, 1992 for:

- Rental housing development that is not non-profit housing
- Institutional development
- Non-profit housing development

### 3.2. A non-profit housing development shall pay their first payment at occupancy and the following 20 anniversaries after that date (21 equal payments).

- 3.3. With the exception of clause 3.2, all other eligible development shall pay their first payment at occupancy and the following 5 anniversaries after that date (6 equal payments).
- 3.4. All other development shall pay their development charges in full under section 26 of the Act upon the issuance of a building permit unless an early or late payment agreement has been entered into under subsection 27 (1) of the Act.

#### **4. Acknowledgement Letter**

- 4.1. For all eligible development under section 26.1 of the Act an Acknowledgement Letter (sample in Appendix 1) will be provided to the applicant / property owner at the time of building permit issuance outlining the terms of the development charge annual installments as per the Act and Town policy.
  - 4.1.1. Confirmation of receipt of the Development Charge Annual Installment Acknowledgement letter is required by the person responsible to pay development charges prior to the issuance of a building permit.

#### **5. Notice of Occupancy**

- 5.1. Unless the Town of Whitby issues an occupancy permit under the Building Code Act, 1992, the person responsible to pay development charges shall notify the Town of Whitby in writing within five business days of the building first being occupied.
  - 5.1.1. Under subsection 26.1 (6) of the Act, failure to comply with the occupancy notice requirement will result with the development charge including any interest payable becoming payable immediately.

#### **6. Interest on Installments**

- 6.1. Under the Town of Whitby's Development Charge Interest Policy and subsection 26.1 (7) of the Act, interest will be charged on installments, from the date the date the development charge would have been payable in accordance with section 26 of the Act and the Town's Development Charge by-law.

#### **7. Schedule of Installment Payments**

- 7.1. The Town of Whitby will provide an Installment Payment Schedule to the person required to pay development charges once notified of occupancy.

Acknowledgement of the Instalment Payment Schedule and the first installment payment shall be due within 15 days of the Installment Payment Schedule being provided.

It will be the responsibility of the person responsible to pay development charges to provide payment in a prompt and timely manner as per the schedule, no further notification of upcoming payments will be given.

## **8. Approved Community Improvement Plan Applications**

- 8.1. For any eligible development that has also been approved for a development charge grant under a Town of Whitby Community Improvement Plan, the grant shall be applied in full to the amount of development charges owing on the date of building permit issuance.
- 8.2. At occupancy, installment payments shall be calculated as per policy and based on the net amount remaining after the grant is applied plus any applicable interest.

## **9. Early Payment Agreement**

- 9.1. Under section 26.1 of the Act, the development charges shall be paid in equal annual installments for eligible development.
- 9.2. Under section 27 (1) of the Act, an early payment agreement (sample provided in Appendix 2) will be required if the person required to pay development charges chooses to pay the full development charges plus accrued interest owing prior to building permit issuance or at occupancy.
  - 9.2.1. The Treasurer has the authority to issue and execute all early payment agreements.

## **10. Termination of the Installment Schedule**

- 10.1. The remaining balance of all development charges shall be payable within 15 days immediately following the notification / determination of any of these trigger events.
  - Change of use to a development type that is not eligible for a development charge installments under the Act, as of the day the change is made.
  - Sale or transfer of ownership, of the property unless an assumption agreement is entered into.

## **11. Unpaid Development Charges**

- 11.1. If any development charges (including interest) are unpaid, those development charges (including interest) may (at the discretion of the Treasurer) be added to the tax roll and collected in the same manner as taxes, in accordance with section 32 of the Act.
  - 11.1.1. Interest on late payments added to the tax roll shall incur the applicable taxation interest rate.

## **12. Related Policies**

- Development Charge Interest Policy
- Timing of Development Charge Calculation Policy

## **Appendices**

**Appendix 1**      Sample Acknowledgement Letter

**Appendix 2**      Sample Early Payment Agreement

**Appendix 2**      Sample Installment Payment Schedule

**This Policy is hereby approved by Council Resolution #109-20 on this 19<sup>th</sup> day of May, 2020.**

**Sample Acknowledgement Letter** (Section 26.1 of the Development Charges Act) -  
To be provided and acknowledged on/before building permit issuance.

**DATE**

Under the Development Charges Act, 1997 (the Act) section 26.1 and O.Reg 454-19, the development located at **INSERT ADDRESS** (reference building permit # **XXXXXX**), has been identified as:

- Institutional Development
- Non-Profit Housing Development
- Rental Housing Development

As such, the development shall receive a deferral in payment of development charges.

The first annual development charge installment will be due at occupancy with the remainder payable in **INSERT NUMBER** equal annual installments.

Calculation of the Town of Whitby portion of the payable development charges will be based on sections 26, 26.1 and 26.2 of the Act and will follow approved Town policy. Installment payments are subject to interest.

Any applicable Region of Durham or school board development charges will be calculated directly by them.

The person required to pay development charges (owner/developer) shall, unless the Town of Whitby issues an occupancy permit under the Building Code Act, 1992, notify the Town of Whitby in writing within five business days of the first building first being occupied. Notification can be emailed to **INSERT EMAIL ADDRESS**.

A Schedule of Installment Payments will be calculated and provided by the Town upon notification of occupancy,

If the person required to pay development charges wishes to pay on an accelerated payment schedule, an Early Payment Agreement is required under section 27 of the Act.

**Related Town Policies**

- Development Charge Deferral Payments Policy
- Development Charge Interest Policy
- Timing of Development Charge Calculation Policy

**AUTHORIZED TOWN OF WHITBY SIGNATURE**

**TITLE**

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Acknowledgement of receipt of the letter pertaining to eligibility under section 26.1 of the Development Charges Act, 1997 dated INSERT DATE, for the development located at INSERT ADDRESS (reference building permit # XXXXX).

The undersigned as an authorized representative or owner of the property is acknowledging receipt of the letter outlining the eligibility legislative requirements for DC Installment payments under section 26.1 of the Act.

AUTHORIZED REPRESENTATIVE/OWNER SIGNATURE

COMPANY NAME

ADDRESS

DATE

**Early Payment Agreement** (section 27 of the Act)

DATE

This is an early payment agreement between **INSERT NAME** and the Town of Whitby for the payment of development charges under section 27 of the Development Charges Act, 1997 (the Act) for **INSERT ADDRESS**, (reference building permit # **XXXXXX**).

The Applicant acknowledges that under section 26.1 of the Act, the property listed above shall pay development charges in equal annual installments with the first payment due upon occupancy. It is the Applicant's desire and commitment to remit the applicable development charges on an alternate / early payment schedule as outlined below



Full payment of applicable development charges on the building permit issuance date calculated as per policy.



Full payment of applicable development charges within 15 days of notice of occupancy calculated as per policy.

**Related Town Policies**

Development Charge Deferral Payments Policy  
Development Charge Interest Policy  
Timing of Development Charge Calculation Policy

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The following payment terms have been deemed acceptable by both parties upon signature of this agreement.

**AUTHORIZED REPRESENTATIVE/OWNER SIGNATURE**

**COMPANY NAME**

**ADDRESS**

**DATE**

**AUTHORIZED TOWN OF WHITBY SIGNATURE**

**TITLE**

**DATE**

**Schedule of Development Charge Installment Payments** - to be provided once notice of occupancy has been received

**DATE**

Notification of occupancy for **INSERT ADDRESS** (reference building permit # **XXXXXX**) was received on **INSERT DATE**. As per section 26.2 of the Development Charges Act, 1997 the first installment of the development charges is now due, with the remainder due in annual installments, refer to the schedule below for the future due dates.

Date	Town of Whitby Amount	Region of Durham Amount	Total DC Installment Due
OCCUPANCY			
Payment 2			
Payment 3			
Payment 4			
Payment 5			
Payment 6			
Total			

The first payment must be received within fifteen days of the date on this letter to avoid any interest penalty. All future payments are due on/before the due date.

Under subsection 26.1 (8) of the Development Charges Act, 1997 unpaid amounts may be added to the tax roll and collected in the same manner as taxes including the applicable interest rate.

Under the approved Town of Whitby Development Charge Deferral Payment Policy, this schedule will serve as the only notice of future due dates for installment payments.

**Related Town Policies**

- Development Charge Deferral Payments Policy
- Development Charge Interest Policy
- Timing of Development Charge Calculation Policy

**AUTHORIZED TOWN OF WHITBY SIGNATURE**

**TITLE**

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Acknowledgement of receipt of the Schedule of Development Charge Installment Payments dated INSERT DATE, for the development located at INSERT ADDRESS (reference building permit # XXXXX).

The undersigned as an authorized representative or owner of the property is acknowledging receipt of the letter outlining the Schedule of DC Installment Payments permitted under section 26.1 of the Act.

AUTHORIZED REPRESENTATIVE/OWNER SIGNATURE

COMPANY NAME

ADDRESS

DATE