



# Town of Whitby Policy

---

<b>Policy Title:</b>	Development Charge Interest Policy
<b>Policy Number:</b>	F 430
<b>Reference:</b>	Council Resolution #109-20
<b>Date Approved:</b>	May 19, 2020
<b>Date Revised:</b>	N/A
<b>Approval:</b>	Council
<b>Point of Contact:</b>	Financial Services Department

---

## Policy Statement

The fundamental principle of funding growth-related capital costs is that 'Growth should pay for Growth'. This policy serves to ensure that there is compensating interest income to fund the lost development charges that will result from the legislated DC rates being set earlier in the planning application process rather than at building permit issuance and the annual installment program for certain development.

## Purpose

The purpose of this policy is to establish the rules and practices for charging interest, as permitted under sections 26.1 and 26.2 of the Development Charges Act, 1997.

## Scope

This policy applies to the charging of interest, as permitted under sections 26.1 and 26.2 of the Development Charges Act, 1997. This includes all types of development in the Town of Whitby:

- That are eligible for annual instalment payments under section 26.1 of the Development Charges Act, 1997
- Under section 26.2 of the Development Charges Act, 1997, where an application has been made for an amendment bylaw passed under section 34 of the Planning Act, 1990 **or** where an application for approval of development in a site plan control area under subsection 41(4) of the Planning Act, 1990 has been made.

## Index

1. Definitions	3
2. Responsibilities	3
3. Legislative Framework	4
4. Interest Rate Used	5
5. Amendment or Revision to the Interest Rate	5
6. Interest Rate Publication and Notification	6
7. Compounding and Prorating	6
8. Late Payment Interest on Unpaid Development Charges	6
9. Effective Date	7
10. Transition	7
11. Related Policies	7

## 1. Definitions

1.1.**Act** means the Development Charges Act, 1997

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; or
- 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; or
- 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. 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.
- Confirm that a complete application was made for the purposes of determining the total amount of the development charge and for recording and reporting the application submission date(s) and application approval date(s) made under section 34 and subsection 41(4) of the Planning Act.

## 2.2. Commissioner of Financial Services / Treasurer

Administer this policy, including but not limited to:

- Determining the total amount of the development charge that would be determined under the by-law and the applicable interest rate that would apply.
- Collect, and monitor all development charges, including interest, when payments are due / paid.
- Ensure the total accrued interest amount is being charged and collected when due.
- Establishing and publicising the interest rate as per policy.
- Working with Town staff to ensure the policy is administered correctly.

## 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. Interest under section 26.1 of the Act

Subsection 26.1(7) of the Act allows a municipality to charge interest on the installments from the date the development charges would have been payable under section 26 of the Act

### 3.3. Determination of Development Charge Amount under section 26.2 of the Act.

Under subsection 26.2(1) of the Act, the total amount of a development charge (i.e. rate) is determined under the Town of Whitby's Development Charge Bylaw in effect on:

- 3.3.1. The day an application for an amendment to a bylaw passed under section 34 of the Planning Act was made, or
- 3.3.2. If clause 3.3.1 does not apply, the day an application for an approval of development under subsection 41(4) of the Planning Act was made.
- 3.3.3. If neither clause 3.3.1 nor 3.3.2 applies, the date the development charges would have been payable under section 26 of the Act, which is normally building permit issuance.

#### 3.4. 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 3.3.1 or 3.3.2 to the date the development charge is payable.

#### 3.5. Maximum Interest Rate under sections 26.1 and 26.2 of the Act

The Act allows a municipality to charge interest on the development charge at a rate not exceeding the prescribed maximum interest rate.

There is no prescribed interest rate under subsections 26.1 and 26.2 of the Act.

### **4. Interest Rate Used**

4.1. An interest rate of 5% shall be used.

4.2. Notwithstanding clause 4.1, on a case by case basis, Council could direct a different interest rate (if applicable) for annual installment payments under section 26.1 of the Act, beginning at building permit issuance, for the following types of development:

- A non-profit housing development;
- A long-term care home owned by a charitable organization or a non-profit organization as approved under the Income Tax Act; or
- A hospice.

### **5. Amendment or Revision to the Interest Rate**

5.1. The Commissioner of Financial Services / Treasurer has under this policy the authority to amend/revise the interest rate used.

5.1.1. The notification of any interest rate amendment / revision shall be publicised as per policy.

5.1.2. Any interest rate amendments come into effect 7 business days after notification has been posted or as per the effective date provided in the notification, whichever is greater.

5.2. For eligible development under section 26.2 of the Act, in the event the interest rate is amended or revised, the new interest rate shall apply to the total accrued amount, prorated from the date of the interest rate amendment or revision to:

- The date the total accrued amount is fully paid, or
- A subsequent amendment or revision of the interest rate

## **6. Interest Rate Publication and Notification**

6.1. Upon Council approval, this policy and the interest rates being used shall be made available on the Town of Whitby [development charge webpage](#).

6.2. All rate amendments or revisions shall also be posted on the Town of Whitby [development charge webpage](#).

## **7. Compounding and Prorating**

7.1. All interest shall continue to accrue and be compounded annually beginning based on the applicable dates as outlined in section 26.1 and section 26.2 of the DCA until the date the total accrued amount is fully paid. A 365 day calendar year shall be used for the purpose of prorating all interest calculations.

### **7.2 Subsequent Application(s)**

If a subsequent application(s) is made for a development:

- The date the subsequent application is made will become the new date under which the total amount of the development charge is determined.
- All interest that had accrued prior to the subsequent application shall be deemed to be zero (0).
- Interest will be compounded annually and begin to accrue from the date the subsequent application is made.

### **7.3 Interest under section 26.1**

If a development qualifies for installment payments under section 26.1 of the Act, the total accrued amount shall continue to accrue interest from the date of the issuance of a building permit.

During the installment timeframe, interest shall continue to accrue on the outstanding balance. This shall continue until the date the total accrued amount has been fully paid.

The applicable interest applied to the annual installment payments determination shall be the rate in effect as of the occupancy date and shall remain fixed for the term of the installment period, as long as installment payments are remitted as per the Installment Payment Schedule.

## **8. Late Payment Interest on Unpaid Development Charges**

---

8.1. 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.

8.1.1. Interest on late payments added to the tax roll shall incur the applicable taxation interest rate.

## **9. Effective Date**

9.1. Upon approval by Town of Whitby Council, this policy shall take effect retroactively as at January 1, 2020. This policy may be repealed and/or modified by Town of Whitby Council at any time.

## **10. Transition**

10.1. To allow for a transition period, this policy does not apply to the determinations of the rate and amount of development charges calculated under section 26.2 of the Act, for any development that has been issued a building permit for development, until the existing DC By-law has been repealed or January 1, 2021, whichever is sooner.

10.2. For the purposes of calculating annual installment payments under section 26.1 of the Act, this policy is immediately in effect.

## **11. Related Policies**

- Development Charge Annual Installment Payments
- Timing of Development Charge Calculation Policy

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