

**To: David Creery, Chief Administrative Officer**

**From: Harold de Haan, City Engineer**  
**Diane Campbell, Director of Administrative Services**

**Re: Development Charges Interest Policy Update**

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**AIM**

To update the existing Deferred Charges Interest Rate Policy – AS012, in response to changes to the Development Charges Act (DCA) 1997, introduced by Bill 23, More Homes Built Faster Act, 2022 which prescribed a maximum interest rate to be charged under section 26.3 of the DCA and Bill 185, Cutting Red tape to Build More Homes Act, 2024 which imposed time limitations related to frozen development charges.

**BACKGROUND**

Effective January 1, 2020, amendments were made to the DCA through the passage of Bill 108, More Homes, More Choice Act, 2019 (as amended by Bill 138). Additional changes to the DCA were passed in late 2022 through Bill 23 and in 2024 through Bill 185.

A summary of the changes to the DCA as a result of Bills 108, 138, 23 and 185 include:

1. Frozen Development Charge (DC) Rates: Development charges are frozen based on the date a site plan or zoning application is received for a particular development, whichever is later amending the former practice of calculating DCs with rates in effect on the date of building permit issuance. However, should a period of more than 18 months elapse from the approval date to the date the first building permit is issued, the DC charge will be determined at the time of building permit issuance.
2. Mandatory deferral and instalment payments: types of developments eligible for deferral were expanded and included rental housing, institutional development and non-profit housing. Non-profit housing has since been removed from this list and is exempt from the payment of DCs.
3. In the case of frozen DCs, municipalities are permitted to charge interest on DCs starting from the date the planning application is received until the date of payment.

In the case of DCs on rental housing and institutional developments that are eligible for instalment payments, the DCs shall be paid in equal annual instalments on the earlier of the date an occupancy permit is issued or the date the building is first occupied and will continue on the following five anniversaries of that date. Interest may be charged from the date the DC is payable until the instalment is paid at a rate not exceeding the maximum interest rate determined in accordance with section 26.3 of the DCA.

4. Previously the interest rate could not exceed the prescribed maximum interest rate. However, as the province did not prescribe a maximum interest rate, the rate of interest that was charged was at the discretion of each municipality. With the passage of Bill 23, the province has now prescribed an interest rate pursuant to section 26.3 of the DCA.

In April 2020, staff prepared a report for Council advising of the above changes resulting from the passage of Bills 108 and 138 and recommended an interest rate of the Canadian Bank Prime rate plus three percent. The rate was to be calculated on the first of each month. At that time, Council approved Policy AS012 incorporating the above information including the interest rate to be charged.

With the passage of Bill 23 and Bill 185, an update is required to Council Policy AS012.

### **COMMENTS**

As a result of the ongoing amendments to the DCA, staff continue to adjust their administrative processes to manage the many requirements related to frozen and deferred development charges including determining what dates development charges are payable, when interest should be charged and what interest rate should be used.

In order to fulfill the obligations required by the DCA, staff recommend that Council update the Development Charges Interest Policy to reflect the prescribed maximum interest rate as permitted under Section 26.3 of the Development Charges Act (DCA). Considerable additional information has been added to the policy in order to clarify when and how to apply interest charges and to provide guidance for any transitional period.

Staff are requesting Council authorize the following interest charges for the mandatory frozen and deferred/instalment DC payments:

- 1) Interest charges will be based on the dates development charges become payable as determined in accordance with Sections 26.1 and 26.2 of the Development Charges Act.
- 2) Interest rates will be calculated at the base rate + 1% in accordance with Section 26.3 of the Development Charges Act.

As there are a variety of situations to manage with respect to frozen and deferred DCs, the need for agreements between the City and the developers is ongoing. Any agreement should detail the payment plan and terms and conditions of the deferred arrangement such as the length of the deferral, interest rate and instalment payment schedule.

### **RECOMMENDATION**

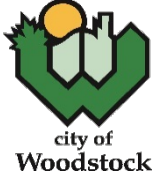
That Woodstock City Council approve the Development Charges Interest Policy AS012, as amended.

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*Approved by: Diane Campbell, CPA, CA, Director of Administrative Services*

*Approved by: Harold deHaan, P. Eng, City Engineer*

*Approved by: David Creery, MBA, P. Eng, Chief Administrative Officer*

 city of Woodstock	<b>City of Woodstock Policy Manual</b>
<b>Subject:</b>	<b>Development Charges Interest Rate Policy</b>
<b>Policy Number:</b>	<b>AS012</b>
<b>Revision:</b>	
<b>Approved by Council:</b>	<b>April 16, 2020</b>
<b>Amended:</b>	<b>March 6, 2025</b>

**Statement of Principle:**

To provide a framework for the imposition of interest charges on deferred or frozen Development Charges (DC) under sections 26.1, 26.2 and 26.3 of the Development Charges Act, 1997 (DCA).

**Legislation:**

Sections 26.1 and 26.2 of the DCA allow for the freezing of DC rates and/or the deferral of payments related to eligible developments.

Specifically:

- 1) Development charge rates are to be frozen at the time of planning application under subsection 26.2(1) of the DCA. The DCs remain frozen subject to the first building permit being issued within 18 months of the date of the planning application approval.

As permitted under Section 26.2 of the DCA, a municipality may charge interest on the development charge from the date of the planning application to the date the development charge is payable at a rate not exceeding the maximum interest rate determined in accordance with section 26.3 of the DCA.

- 2) Mandatory deferral and instalment payments for rental housing and institutional developments under subsections 26.1(1), (2) and (3) of the DCA shall be paid in equal annual instalments, beginning at the earlier of an occupancy permit under the Building Code Act, 1992 or first occupancy. The first instalment payment is at occupancy and is followed by five instalment payments on the anniversary date for a total of six payments.

If any part of the building is occupied and no occupancy permit has been issued, the municipality must be notified within five business days. Failure to

comply with the notice requirements will result in the development charge (including any accrued interest) becoming due immediately.

As permitted under subsection 26.1(7) of the DCA, a municipality may charge interest on the instalments for rental housing and institutional developments from the date the development charges would have been payable under Section 26 of the DCA to the date the instalment is paid at a rate not exceeding the maximum interest rate prescribed in accordance with section 26.3 of the Act.

- 3) The rules for determining the maximum interest rate are prescribed under section 26.3 of the DCA. The maximum interest rate to be charged is the average prime rate, as defined under the DCA plus 1%. The average prime rate will be determined quarterly in accordance with the adjustment dates prescribed under section 26.3 of the DCA.

In an attempt to preserve revenue neutrality and protect the City from risk, this policy will establish the conditions for the application of interest rates.

#### **Application:**

##### 1) Interest Charges

a) The interest rate that shall be charged is the maximum interest rate permitted under section 26.3 of the DCA. For developments with an application received under subsection 26.2(1) of the DCA between January 1, 2020 and June 1, 2022 (prior to a prescribed interest rates under the DCA), the interest rate included in Council Policy AS012 approved on April 16, 2020 will prevail. (Canadian Bank Prime plus 3%)

The rate, as prescribed above, shall be used for the duration of the application, except where a subsequent application for the same development has been made or where the development qualifies under section 26.1 of the DCA for instalment payments.

The interest rates will be calculated on a quarterly basis in accordance with Section 26.3 of the DCA and will be made available on the City's development charges web page.

A planning application (site plan control or zoning amendment) is considered to be received as of the date that the submitted application is deemed to be complete according to County of Oxford planning staff.

If a development was subject to both site plan and rezoning applications, the later date will apply.

b) The interest rate that shall be charged for each instalment payment under section 26.1 of the DCA (rental housing and institutional developments) will be determined as follows:

- For the first instalment payment, the maximum interest rate permitted under section 26.3 of the DCA as at the date the development charges would have been payable (building permit issuance).
- For all other instalment payments, the maximum interest rate permitted under Section 26.3 of the DCA as at the date of the current instalment payment.

For any DC's not paid by the required date, the amount unpaid, including any interest payable, shall be added to the tax roll and shall be collected in the same manner as taxes. The interest rate shall be the maximum allowed under Section 345 of the Municipal Act.

c) Payment of interest is to be made in conjunction with the payment of the assessed development charges (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 DCA.)

d) For developments that are eligible for, and participating in, deferred payment plans, the interest (if applicable) accrued from the date of receipt of a site plan/zone change 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 DCA. The City will provide an instalment payment schedule to the developer required to pay DCs once notified of occupancy.

## 2) Early Payment Agreement

Section 27 of the DCA permits the payment of DC's before or after they would otherwise be due through agreements between municipalities and developers:

- a) If the owner of a development would prefer to pay the full DC owing at building permit issuance versus instalments over several years thus removing interest charges on the DC payable.
- b) Agreements for payment of DCs at a date earlier than would be permitted pursuant to Section 26.1, but after building permit issuance, may also be accepted with accrued interest from building permit issuance date to the date DCs are paid.
- c) The City Engineer and/or the Director of Administrative Services shall have the delegated authority to enter into such agreements on behalf of the City.

### 3) Agreement

The Owner and City shall enter into an agreement outlining the methodology of the interest rates and payment dates. Said agreement shall be registered on title as the first encumbrance prior to issuance of building permit. The City Engineer, Director of Administrative Services or their designated alternative, shall have the delegated authority to enter into the agreement on behalf of the City.

### 4) Termination of the Instalment Schedule

Should a change in use occur to a type of development that is not eligible for instalments under the DCA, the remaining balance of all DC's shall be payable within 15 days immediately following the notification.

### **Conclusion:**

Imposition of interest charges will minimize the City's exposure to risk and costs associated with deferred and frozen development charges.

<b>Revision Date</b>	<b>Rev #</b>	<b>Particulars</b>
April 16, 2020		Approved by Council
<b>March 6, 2025</b>	1	