



POLICY TITLE	Development Charge Interest Rate		
CATEGORY	Financial		
POLICY NUMBER	A09 FIN 003 FN		
DEPARTMENT	Finance		
POLICY AUTHOR	Director of Finance, Administration and Innovation		
POLICY TYPE	Administrative Policy		
APPROVED BY	Council		
EFFECTIVE DATE	AUG 6, 2024	REVIEW DATE	AUG 6, 2029

POLICY STATEMENT

This policy outlines the timing and rules for development charge calculations, as required under section 26.2 and 26.3 of the *Development Charges Act, 1997*, in order to be compliant with the regulations.

POLICY PURPOSE

This policy applies to development applications that are eligible for the regulated deferral and payment of development charges in instalments, and/or development charges rate freeze as provided in Section 26.1 and Section 26.2 of the *Development Charges Act, 1997* (DCA). Further, it establishes the conditions, duration, terms, and other requirements on when and how the Town determines the total amount of a development charge, the instalment methodology for eligible development types and the applicable interest rates as outlined in the Act.

This policy will support the Town of Lincoln’s ability to build growth-related infrastructure in a way that is fiscally sustainable and will help achieve the following outcomes:

- Good government providing reliable municipal programs and services
- Continued delivery of growth-related infrastructure in a fiscally responsible manner
- Fair and equitable treatment of all stakeholders involved in delivering housing supply, including residents, businesses and developers

LEGISLATIVE AUTHORITY

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 installments, beginning at the earlier of first occupancy or occupancy permit under the Building Code, Act, 1992, for:

- i. Rental housing development that is not non-profit housing development as defined under section 11.1 (1) of O. Reg 82/98 as per section 3 (a) of the Act; and
- ii. Institutional development as defined under section 11.1 (2) of O. Reg 82/98 as per section 3 (a) of the Act.

Both a Rental housing development and institutional development as described under i and ii shall pay their first payment at occupancy of the first unit and the following five anniversaries after that date (six equal payments).

All other development shall pay their development charges 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.

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 installments from the date the development charges would have been payable, under section 26 of the Act, to the date the installment is paid, at a rate not exceeding the prescribed maximum interest rate.

3. Timing for Development Charge calculation 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 Town's Development Charge By-law in effect 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, or
- iii. If neither clause i nor ii applies, the date the development charges would have been payable under section 26 of the Act which is normally building permit issuance as per the Town's Development Charges By-law No. 2024-28, 2024-29, 2024-30, 2024-31, 2024-32, 2024-33, 2024-34 and 2024-35 or any successor by-law(s) thereto unless permitted otherwise through section 26.1 of the

Development Charges Act.

4. By-law not in effect

Under subsection 26.2(2) of the Act, subsection 26.1(1) applies even if the by-law under which the development charge would be determined is no longer in effect.

5. 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 4(i) or 4(ii) to the date the development charge is payable.

6. Maximum Interest Rate under sections 26.1 and 26.2

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

Subsection 26.3(1) of the Act defines the 'average prime rate'

Subsection 26.3(2) of the Act states that the maximum rate of interest shall be an annual interest rate that is one percentage point higher than the base rate of interest, which shall be equivalent to the average prime rate. The base rate of interest shall be determined for each adjustment date and be equal to the average prime rate on:

- i. October 15 of the previous year, if the adjustment date is January 1,
- ii. January 15 of the same year, if the adjustment date is April 1,
- iii. April 15 of the same year, if the adjustment date is July 1,
and
- iv. July 15 of the same year, if the adjustment date is October 1.

Subsection 26.3(3) of the Act states that Subsection 26.3(2) does not apply in respect of a development charge that was payable before November 28, 2022, the date of passage of Bill 23, the More Homes Built Faster Act, 2022.

POLICY

- a. The application and approval dates for the purposes of this Policy shall be determined by the Town, in accordance with Section 26.2 of the Act.
- b. The applicant shall be notified of the Application Approval date for the

purposes of Section 26.2 of the Development Charges Act by the Town.

c. Application Appeal

Should any Local Area Municipality decision on the application(s) as noted under section 4(i) and 4(ii) be appealed, the Local Area Municipal decision will stand until final resolution of the appeal.

- i. Should a decision on an unapproved application be successfully appealed, the application made date will apply to section 4(i) or 4(ii) of this policy and the application approval date shall be the date the appeal is approved.
- ii. Should a decision on an approved application be upheld, the application made date will apply to section 4(i) or 4(ii) of this policy and the application approval date shall be the date the decision is upheld.
- iii. Should a decision on an approved application be successfully appealed or a decision on an unapproved application be upheld, the application made date will not apply to sections 4(i) and 4(ii) of this policy.

d. Interest on Development Charges for Subsection 26.2(3) of the Act

Interest will be charged at the rate established in the Procedure on the development charge, from the date of the application referred to in clause 4(i) or 4(ii) of this policy, to the date the development charge is payable.

e. Final Determination of Total Payable Development Charges

On the day the development charge(s) is first payable, the final determination of the total payable development charge(s) shall be made.

f. Transition Clauses 4(i) and 4(ii) do not apply in the case of an application made before January 1, 2020, as per subsection 26.2(6) of the Act.

g. Acknowledgment Letter

For all eligible development under section 26.1 of the Act an Acknowledgement Letter will be provided to the applicant / property owner at the time of building permit issuance outlining the terms of the development charge annual instalments as per the Act and Town policy.

h. Notice of Occupancy

- i. The person responsible to pay development charges shall notify both the Niagara Region and the Town in writing within five business days of the building first being occupied unless an occupancy permit has been issued by the Town for the purposes of section 26.1 of the Act.
 - ii. Under subsection 26.1(6) of the Act, failure to comply with the occupancy notice requirement under 26.1(5) will result in the development charge including any interest payable becoming payable immediately.
 - iii. If the person responsible to pay development charges receives an occupancy permit issued by the Town, the Town must notify the Niagara Region within five business days for the purposes of section 26.1 of the Act.
- i. Interest on Instalments for Subsection 26.1(7) of the Act
 - i. Interest will be charged on instalments at the rate found in section n - Interest Rate Used from the date the development charge would have been payable in accordance with section 26 of the Act and the Town's Development Charges By-law.
- j. Schedule of Instalment Payments
 - i. The Town will provide an Instalment Payment Schedule to the person required to pay development charges on issuance of a permit or once notified of occupancy.
 - ii. Acknowledgement of the Instalment Payment Schedule and the first instalment payment shall be due within 15 days of the Instalment 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.
- k. Development Charge Grants

For developments that are in receipt of a Town development charge grant or credit, the amount that shall be used for the purpose of determining instalment payments shall be the net amount of Town development charges payable.
- l. Termination of the Instalment Schedule

The remaining balance of all development charges shall be payable within

15 days immediately following the notification / determination of any of these trigger events:

- i. Change of use to a development type that is not eligible for development charge instalments under the Act, as of the day the change is made.
- ii. Sale or transfer of ownership.
- iii. If the balance of Town development charges owing plus any accrued interest as per the instalment schedule is paid to the Town.

m. Unpaid Development Charges

- i. If any development charges (including interest) are unpaid, those development charges (including interest) may (at the discretion of the Town) be added to the tax roll and collected in the same manner as taxes, in accordance with section 32 of the Act.
- ii. Interest on late payments added to the tax roll shall incur the applicable taxation interest rate (as provided under section 345 of the Municipal Act, 2001).

n. Interest Rate Used

- i. Interest rates will be calculated at the maximum interest rate as prescribed in Subsection 26.3(2) for Rental Units, Institutional development, and frozen DC's.

o. Late Payment Penalty and Interest on unpaid Development Charge

- i. All development charge instalment (including interest) that are unpaid as per the criteria established under section 26.1 of the Act, will be subject to a Town administration fee as per the Town's Fees and Charges By-law as amended from time to time and may also be added to the tax roll and collected in the same manner as taxes, in accordance with section 32 of the Act.
- ii. Interest on late payments added to the tax roll shall incur the applicable taxation interest rate as established by the Town of Lincoln.

p. 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:



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

POLICY SCOPE & EXEMPTIONS

This policy applies to all developments eligible under section 26.1 and 26.2 of the Development Charges Act, 1997.

POLICY ADMINISTRATION

Town of Lincoln Council

- Approves, by resolution, the Development Charge Interest Rate Policy and any updates as necessary every five years or upon expiry of the Town of Lincoln Development Charges By-law.

Director of Finance / Treasurer

- Administer this policy, including but not limited to:
 - Determining the total amount of the development charge that would be determined under the bylaw and the applicable interest rates that would apply
 - Ensure the total accrued amount is being charged and collected when due

Director Planning & Development or Chief Building Official

- Enforce this policy, including but not limited to:
 - Informing the Finance department when development charges should be issued
 - Informing the Finance Department if a development qualifies to have their development charge rate frozen under section 26.2 of the act
 - Informing the Finance Department if a development qualifies to have their payments deferred under section 26.1 of the act.

POLICY COMMUNICATION

An interest rate shall be used for the purposes of section 26.1 and 26.2 and shall be made available on the Town's website under the development charges page.

DEFINITIONS

“Act” refers to The Development Charges Act, 1997, S.O. 1997, c. 27, as amended, revised, re-enacted or consolidated from time to time, and any successor statute.

“Development” refers to the construction, erection or placing of one or more buildings or structures on land. This includes the making of an addition or alteration to a building or structure that has the effect of:

- Increasing the size, or
- Changing the use from non-residential to residential or from residential to non-residential and includes redevelopment

“Total Accrued Amount” refers to the equal to the total of the development charges and interest which has accrued.

RELATED PROCEDURES

The Town of Lincoln will meet the requirements of the:

- Development Charges Act, 1997, S.O. 1997, c. 27 and all related regulations
- Planning Act, R.S.O. 1990, c. P.13
- Town of Lincoln Development Charges By-law

REVISION HISTORY

- July 2024 – Revised in accordance with legislation.
- May 2, 2022 – Approved – New Policy (Report AD-07-22 to Committee of the Whole on April 25, 2022, with Council approval on May 2, 2022 via Resolution No. RC-2022-67).
- August 6, 2024 – Revised Policy (Report FN-11-24 to Council on August 6, 2024, with approval via Resolution No. RC-2024-90).