
MEMORANDUM

CSC-C 2-2021

Subject: Committee Request for Information Re: Development Charge Calculation and Payment Policy

Date: February 17, 2021

To: Corporate Service Committee

From: Helen Chamberlain, Director, Financial Management & Planning/Deputy Treasurer

At the Corporate Services Committee on December 9, 2020, staff provided a draft policy for the timing of development charge calculation, installments and interest for Committee's consideration to address recent changes to the Development Charge Act. The purpose of this memo is to address questions that were expressed by committee members.

Q1. For the rate freeze, will there be retro-active rebates for applications received between January to December 2020?

Any institutional and rental housing development that met the Development Charge (DC) rate freeze requirements as per section 26.2 of the Development Charges Act (DCA) as of the legislation's effect date of January 1, 2020 would "lock in" the 2020 rates. This means, that if a developer submitted a complete application for an approval of development in a site plan control area under section 41 (4) of the Planning Act or an application for an amendment to a by-law passed under section 34 of the Planning Act on or after January 1, 2020 and was subsequently issued a permit in 2020 the developer would incur DCs payable at the 2020 rate regardless of whether or not section 26.2 of the DCA was in effect.

Q2. If there any front loaded development charge agreements, how are they impacted?

Any development that submitted a complete application for an approval of development in a site plan control area under section 41 (4) of the Planning Act or an application for an amendment to a by-law passed under section 34 of the

Planning Act that predate the date of the legislation are not eligible for the rate freeze or deferral arrangements

How will the interest be calculated for frozen rates and installment?

For the frozen rates, interest will be calculated on a non-compounding basis on the DC payable from the initial freeze date to when the building permit is issued. Developers have 2 years from the initial freeze to be issued a building permit to utilize the frozen rates. For Installments, interest will be calculated on a non-compounding basis from the date that the first building permit is issued to the date that the deferred DCs are paid in full at the conclusion of the installment period.

Q3. How does this policy impact properties eligible for installments but paid the amounts in full at permit issuance in 2020 (I.e., after legislation was in effective but before Regional policy approval)?

The DCA amendments that permit installments for certain development types under section 26.1 was effective January 1, 2020. As such, any eligible property that was issued a permit in 2020 would be eligible for instalment despite the Region policy not being effective until January 1, 2021. The only impact is the Region would forgo any interest that could have been generated for 2020 as a result of the installment.

If a developer was issued a permit for a development in 2020 that would have been eligible for installments but paid the DCs in full at time of permit issuance, then under the complaint procedure within the DCA, the developer would have 90 days from payment to file a complaint with the Region to rectify the issue. If the 90 days has lapsed then the developer has forgone their ability to file a complaint.

Additionally Region staff will review permits issued in 2020 to determine those that may have been eligible for installments under section 26.1 of the DCA. If any eligible developments were issued a permit and confirmation of eligibility for installment can be obtained, the Region will recalculate their DCs payable under the installment approach and provide the necessary payment schedule and interest calculation as per the legislative requirements.

Q4. If a developer triggers DC rate freeze in 2020 and is issued a permit in 2021, how does this impact the DC rate that the developer pays in 2021?

Since the Policy has an effective date of January 1, 2021, the Region will forgo any interest on the frozen DC rate from the date that the rate freeze occurred to December 31, 2020. The policy effective date does not impact the DC freeze date as per the DCA; the DC rates are frozen with or without a Regional Policy. Since the Region's Policy has a planned effective date of January 1, 2021, the Region would be able to charge interest on the frozen DC rates starting on this effective date.

Q5. The Regional policy is not in effect until 2021 with respect to the calculation date. Does that negatively effect developments of availing them of the options under the policy?

The legislation was effective January 1, 2020. As such, developers that met the DCA criteria would be eligible for the DC rate freeze despite the Region not having a Policy in place until January 1, 2021.

Q6. Risk of litigation since we have not implemented on January 1, 2020?

There is no risk of litigation as a result of the delay in the Region setting the policy as the legislation was effective January 1, 2020. As noted previously, if any eligible developments were issued a permit and confirmation of eligibility for installment can be obtained, the Region will recalculate their DCs payable under the installment approach and provide the necessary payment schedule and interest calculation as per the legislative requirements.

Q7. How does this impact outstanding litigation matter regarding Regional Development Charges?

There is no impact on any outstanding litigation matter regarding Regional Development Charges.

Respectfully submitted and signed by

Helen Chamberlain, CPA, CA
Director, Financial Management & Planning/Deputy Treasurer