

Regional Development Charges Deferral Policy

Policy owner: Corporate Services, Financial Management & Planning, Associate Director, Budget Planning Strategy

Approval body: Council

Effective date: October 24, 2019

Review by date: Within 2 years or upon expiry of a Regional Development Charges Bylaw

1. Policy

This policy establishes principles and practices for deferral of Regional development charges.

- 1.1. The following development types will be eligible for Regional development charges deferral under this policy:
 - 1.1.1. Affordable housing developments that received funding through an agreement with Niagara Regional Housing or designated agency of Niagara Region as per By-Law 2017-98, Section 11. (f).
 - 1.1.2. Developments that have received conditional/pending approval for Regional Development Charge grant and where the total Regional development charges for the project exceeds the minimum threshold. The deferral amount under this clause will be capped at the amount of the conditional/pending grant.
 - 1.1.3. Developments that Regional staff have identified as eligible for a future Municipal Capital Facility Agreement for which Regional Development Charges will be exempted (subject to conditions under Municipal Act, 2001, section 110 and subsequent Regional Council approval).
 - 1.1.4. Developments that are eligible for a transitional provision in an approved Regional development charge by-law.
- 1.2. Under the terms of this Policy, an individual that is required to make payment of Regional Development Charge may submit a complete application package requesting a Regional development charges deferral agreement prior to the payment of development charges for the development.
- 1.3. An application made under this policy will only be accepted if complete and the

prescribed administrative fee has been provided to Niagara Region as outlined in the Region's Fee and Charges By-law as amended from time to time.

- 1.4. If the request does not comply with the Policy, Niagara Region will refuse the application and advise the applicant accordingly.
- 1.5. If approved, a deferral agreement will be prepared to include the terms and conditions required by both the Director Legal & Court Services and Commissioner, Corporate Services or designate and to secure payment of the deferred charges.
- 1.6. For developments that are eligible for deferral under paragraph 1.1.2, at the time of execution of a deferral agreement under this policy, the applicant must provide a Letter of Credit for the amount of Regional Development Charges deferred.
- 1.7. If the Regional development charges have already been paid for the development by the applicant, the applicant is not eligible for a deferral agreement under this Policy.
- 1.8. In the event that the development charges become payable, the development charges deferred shall be payable in accordance with the deferral agreement executed with Niagara Region and shall be based on the development charge rate that is in effect at the time of building permit issuance.
- 1.9. An annual interest rate shall apply to the amount of Regional development charges deferred. The interest rate for the purposes of the policy and associated agreements is the Bank of Canada rate.
- 1.10. The maximum deferral term shall not exceed the period as outlined below:
 - 1.10.1. Developments eligible for deferral under 1.1.1 shall see the deferral period capped at the length of time that the units remain affordable housing (as may be outlined in the funding agreement).
 - 1.10.2. Developments eligible for deferral under 1.1.2 shall not see the deferral period exceed 2 years from the date that the Regional development charges are otherwise payable.
 - 1.10.3. Developments eligible for deferral under 1.1.3 shall not see the deferral period exceed the length of time anticipated for the Region to designate the development (or any part thereof) as a Municipal Capital Facility.
 - 1.10.4. Developments eligible for deferral under 1.1.4 shall not see the deferral

period exceed the length of time as outlined in the transitional provision of a future Regional development charge by-law.

- 1.11. Notwithstanding the aforementioned eligibility criteria, a deferral request may be refused by the Commissioner, Corporate Service if the net development charge reserve balance is in a deficit.
- 1.12. Authority to execute deferral agreements on behalf of Niagara Region resides jointly with the Director, Legal & Court Services and Commissioner, Corporate Service (or their respective designates authorized in writing to act on their behalf in their absence).
- 1.13. Approval for a Regional development charge deferral under this policy will be rescinded and associated agreement terminated if the building permit for the development is not issued within 6 months of the date of execution of the agreement.
- 1.14. The applicant must register the executed agreement on title of the subject lands at their expense within 30 days of agreement execution or risk default or cancellation of the agreement. Proof of agreement registration on title must be provided within 30 days of the agreement being executed by all parties.
- 1.15. All future deferral requests and agreements entered into by Niagara Region after the effective date of this policy must conform to this Policy. All previous deferral agreements will be grandfathered under the terms and conditions under which they were approved and executed.

2. Purpose

This policy will establish guidelines related to applications for, and the administration and issuance of, Regional development charge deferral agreements pursuant to section 27 of the Development Charge Act, 1997.

3. Scope

This policy applies to all Regional development charge deferral requests.

3.1 Roles and Responsibilities

3.1.1 Regional Council

Approves, by resolution, the development charges deferral policy and

any updates as necessary every five years or upon expiry of the Niagara Region Development charges By-law.

3.1.2 Commissioner, Corporate Services or Designate in Writing

Reviews and updates the Regional Development Charge Deferral Policy as necessary every five years or upon the expiry of a Regional Development Charges By-law and submits any necessary changes for Council approval.

Creates necessary guiding strategies, supporting frameworks and procedures as required to administer this policy which may be amended from time-to-time.

Monitor compliance and adherence to this policy for future Regional development charge deferral agreements.

Develops and maintains appropriate tracking measures for executed deferral agreements and reports on each annually to Regional Council.

Acts as a co-signatory to Regional development charge deferral agreements jointly with the Director, Legal & Court Services.

3.1.3 Director, Legal and Court Services or designate in writing

Ensures that all Regional development charge deferral agreements satisfy all legal requirements as outlined in appropriate legislation.

Ensures that all Regional development charge deferral agreements appropriately mitigate legal exposure for Niagara Region.

Acts as a co-signatory to Regional development charge deferral agreements jointly with the Commissioner, Corporate Services or designate in writing.

4. References and Related Documents.

4.1 Legislation, By-Laws and/or Directives

4.1.1 Development Charges Act, 1997, S.O. 1997, as amended from time to time.

4.1.2 By-law 2017-98 – A By-law to Establish Development Charges for the Regional Municipality of Niagara Region, as amended from time to time.

5. Related Policies

6. Document Control

The electronic version of this document is recognized as the only valid version.