

The Corporation of the City of Kawartha Lakes

Council Report

Report Number ENG2016-027

Date: September 20, 2016

Time: 2:00 p.m.

Place: Council Chambers

Ward Community Identifier: All

Subject: Development Charge Deferral Policy

Author/Title: Adam Found
Manager of Corporate Assets

Signature: 

Recommendation(s):


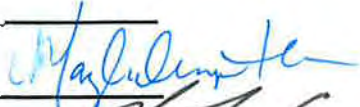

RESOLVED THAT Report ENG2016-027, **Development Charge Deferral Policy**, be received; and

THAT the policy entitled "Development Charge Deferral Policy", appended to Report ENG2016-027 be adopted, numbered and inserted in the Corporate Policy Manual.

Department Head:

Corporate Services Director / Other:

Chief Administrative Officer:

Background:

At the Council Meeting of November 24, 2015, Council adopted the following resolution:

Moved by Councillor Elmslie, seconded by Councillor Strangway, RESOLVED THAT Report CORP2015-032, Development Charge Background Study and By-law, be received;
THAT the City of Kawartha Lakes Development Charge Background Study dated September 21, 2015, as amended by the addenda issued on October 30, 2015 and November 11, 2015, prepared by Watson and Associates Economists Limited and appended hereto as Appendix A, be adopted;
THAT based upon review of the above-noted study, including the proposed development charge by-law appearing therein, for the purpose of subsection 12(3) of the Development Charges Act it is determined that no further public meetings on these documents are required;
THAT for the purpose of paragraph 3 of subsection 5(1) of the Development Charges Act it is the intention of Council to ensure the increase in the need for services attributable to anticipated development will be met and that the committed and future excess capacity identified in the above-noted study shall be paid for by development charges or other similar charges;
THAT the growth-related capital forecast in the above-noted study be integrated into future asset management plans and capital budgets, subject to the annual capital budgeting process and budgetary constraints;
THAT a development charge by-law to implement the development charges calculated in the above-noted study be forwarded to Council for enactment;
THAT a by-law to repeal by-law 2014-238 be forwarded to Council for enactment;
THAT the Manager of Corporate Assets, in consultation with the Treasurer, submit a report to Council in 2016 to address Development Charge reserve fund reconciliation required to correct 2009-2016 draws from and commitments to the Development Charge reserve fund and to make the Development Charge reserve fund whole with respect to Development Charge revenue foregone as a result of exemptions, phase-ins and other unfunded costs; and
THAT the Manager of Corporate Assets submit a report to Council in 2016 to address Development Charges Task Force recommendations P-1 to P-5, as indicated in the schedule of recommendations attached hereto as Appendix B, and to bring forward a recommended policy respecting the timing of the payment of development charges under agreements pursuant to section 27 of the Development Charges Act.

CARRIED CR2015-1242

This report addresses the last component of this direction, that being a direction to the Manager of Corporate Assets to address Development Charges Task Force (DCTF) recommendations P-1 to P-5 and to bring forward a recommended policy respecting the timing of the payment of development charges under agreements pursuant to section 27 of the Development Charges Act. For ease of reference, DCTF recommendations P-1 to P-5 are reproduced in the table below:

Excerpt from Development Charges Task Force Committee Recommendations			
Theme Code	Theme	Identifier	Recommendation
P	Planning and Consultation	P-1	A master planning policy be adopted to ensure master plans are undertaken with adequate funding, expertise, frequency and regard for the increase in need for service attributable to development.
P	Planning and Consultation	P-2	Capital and operating budgets be consistent with DC studies and that a DC reserve reconciliation be undertaken as part of each DC study.
P	Planning and Consultation	P-3	A process be established to ensure DC studies are prepared with adequate funding, expertise, frequency and consultation with stakeholders and the public.
P	Planning and Consultation	P-4	DC studies and proposed DC by-laws be made available for public review for a period of at least four (4) months prior to the corresponding public meeting(s) legislated under the Development Charges Act.
P	Planning and Consultation	P-5	Council consider forming a DC Task Force, with stakeholders as members, twelve (12) months before the City intends to amend or replace its DC by-law(s).

Rationale:

Upon enactment of the 2014 development charge (DC) by-law on August 12, 2014, Council authorized the creation of the DCTF whose mandate was to make recommendations to staff and Council on the DC by-law process and related processes. Some recommendations were directed toward the 2015 DC background study and by-law while others, such as P-1 to P-5, were more general in nature.

Having reviewed recommendations P-1 to P-5 within the context of the 2015 DC by-law and its appeal to the OMB, staff are looking to address the recommendations as follows:

P-1 and P-3: Develop a master planning policy over 2017-18 in conjunction with the Growth Management Strategy update that is congruent with the Corporate Strategic Plan.

P-2: Address this over 2017-18 with the new capital planning and budget process expected to be established within the new ERP-CityWide software framework.

P-4 and P-5: Address these recommendations upon beginning the process to amend or replace the 2015 DC by-law.

Council approval to complete these plans will be sought if and when required.

Turning now to the subject of DC deferrals, over the past few months staff have researched peer municipalities and conducted several consultations with the local development industry, largely via the City's Planning Approvals Task Force, to develop a DC deferral policy. The staff working group comprised the following individuals:

1. Ron Taylor, CAO
2. Juan Rojas, Director of Engineering & Corporate Assets
3. Chris Marshall, Director of Development Services
4. Adam Found, Manager of Corporate Assets
5. Susanne Murchison, Chief Building Official
6. Robyn Carlson, City Solicitor

As a result of this work, a staff-recommended DC deferral policy has been finalized and attached hereto as Appendix A for Council's consideration.

In essence, the objective of the proposed policy is to improve the matching of DC payments with developers' cash flow without entailing an unacceptable financial risk to the City. For residential development controlled through a subdivision agreement, current practice is to require hard service (roads, water and sewer) DC payments (approximately 90% of total DCs) at time of agreement. Under the proposed policy however, these DC payments would be deferred to time of building permit issuance or occupancy, whichever is established through the agreement. Since cash flow is typically associated with occupancy, a preference for deferral to occupancy on the part of the development industry can be expected.

The proposed policy also targets the cash flow challenges particularly associated with condominium and high-density residential development. Under current practice, such development typically pays DCs at time of building permit issuance. Until a condominium is registered, purchase proceeds received by the developer are held in trust and are therefore inaccessible for DC payments. Moreover, a high-density residential structure is typically issued a single building permit for all dwelling units within the structure. With a relatively long lag between the time of building permit issuance and occupancy, payment of DCs at time of building permit issuance is particularly challenging for high-density residential development.

The proposed policy works to alleviate the DC-related cash flow challenges associated with subdivision, condominium and high-density residential development governed by a development agreement. For residential (typically

small-scale) development occurring outside of a development agreement and for non-residential development, the proposed policy maintains the current practice of collecting DC payments at the time of building permit issuance.

The proposed policy provides for adequate assurances for the City through incentives and measures such as maintenance of developers' "good standing" with the City, registration of agreements on title, securities and other measures intended to avoid the need to collect unpaid DCs via the property tax system. As an added layer of protection, the DC deferral program envisioned by the proposed policy gives key members of staff, as well as Council, a veto over each DC deferral application.

A number of Ontario municipalities, such as the City of Barrie, Town of Markham and City of Peterborough, have opted to permit deferral of DC payments beyond the time of building permit issuance. Adoption of the proposed policy would leave the City well-positioned within this group of municipalities as, to the best of staff's knowledge, no Ontario municipality has adopted a DC deferral policy as comprehensive and competitive as that being proposed for the City.

Other Alternatives Considered:

At its September 6th, 2016 meeting, the Planning Approvals Task Force endorsed a version of the proposed policy, attached hereto as Appendix B, through the following resolution:

Moved by Councillor Breadner and seconded by Karl Repka,
RESOLVED THAT the draft Development Charge Deferral Policy submitted by Adam Found, Manager of Corporate Assets, be received; and
THAT the draft Development Charge Deferral Policy be endorsed subject to the following sets of edits:

1. Delete "significant residential development" from the definitions and delete the word "significant" from the Deferral to Occupancy option in the Appendix.
2. Delete the second sentence of Section 7 (securities provision).

CARRIED

These two sets of edits have, respectively, the effect of extending the Deferral to Occupancy option to small-scale residential development (<6 dwelling units) and limiting the City's ability to withhold construction securities as collateral for deferred DCs once construction is complete.

Staff do not support extending deferral to occupancy to small-scale residential development as this would (i) require creating entirely new agreements for development that otherwise does not require an agreement, (ii) add to staff

workload and (iii) delay development approval processes. Moreover, the City Solicitor finds it advisable for the City to maintain the ability to transform construction securities into DC deferral securities as development siteworks are completed.

Financial Considerations:

DC rates are indexed annually on January 1. Under the proposed policy, DC payments are to be made in accordance with the DC rates in effect at the time of payment. The debt repayable by the DC Reserve Fund is not counted toward the self-imposed or provincial debt ceiling for the City. Staff are satisfied with the protection afforded to the City by the proposed policy.

Relationship of Recommendation(s) To The 2016-2019 Strategic Plan:

This report aligns with the Corporate Strategic Plan as follows:

- Goal 1 – A Vibrant and Growing Economy: DC deferrals, with appropriate financial safeguards, support economic competitiveness and prosperity.
- Goal 2 – An Exceptional Quality of Life: DC deferrals help promote development needed to enhance community form and quality of life.
- Goal 3 – A Healthy Environment: N/A.

Review of Accessibility Implications of Any Development or Policy:

N/A

Servicing Comments:

N/A

Consultations:

Ron Taylor, CAO
Juan Rojas, Director of Engineering & Corporate Assets
Chris Marshall, Director of Development Services
Susanne Murchison, Chief Building Official
Robyn Carlson, City Solicitor
Carolyn Daynes, City Treasurer
Planning Approvals Task Force

Attachments:

Appendix A: Staff-recommended DC deferral policy.



Development Charge
Deferral Policy.pdf

Appendix B: Planning Approvals Task Force-recommended DC deferral policy.



Development Charge
Deferral Policy - PATF

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Department Head: Juan Rojas, Director of Engineering & Corporate Assets

Department File:



Council Policy

Council Policy No.:	CA2016-001
Council Policy Name:	Development Charge Deferral Policy
Date Approved by Council:	September 20 th , 2016
Date revision approved by Council:	
Related SOP, Management Directive, Council Policy, Form	

Policy Statement and Rationale:

The timing of the calculation and payment of development charges (DCs) is an important financial consideration for the development industry and the City of Kawartha Lakes. The purpose of this policy is to strike a balance between the DC-related interests of the development industry and the City, and to promote the economic competitiveness and prosperity of the City as they relate to development.

Policy Scope:

The DC Act and the City's DC by-law authorize the City to enter into agreements with owners to override the default timing of the calculation and payment of DCs as set out in the DC by-law. This policy is designed to guide the formation of such agreements under a City-managed Development Charge Deferral Program. The structure, content and continuance of this policy are subject to success and experience of the program.

Policy Principles: This policy is premised on the following general principles:

1. **Cost-Benefit Balance:** It is the intent of this policy to promote economic competitiveness and prosperity through reducing the timing gap between owners' DC payments and corresponding cash flows, subject to ensuring the City's interests are adequately protected.
2. **Effectiveness and Efficiency:** It is the intent of this policy to establish a guiding framework for a Development Charge Deferral Program that is (i) fair and simple for the City and development industry, (ii) effectively and efficiently integrated into existing planning approval processes and (iii) aligns with the City's Corporate Strategic Plan, especially the "Vibrant & Growing Economy" strategic goal.
3. **Targeted Approach:** It is the intent of this policy to primarily focus on the mitigation of the distinct financial challenges to condominium, high-density and relatively large-scale residential development that are associated with the default timing of DC payment as set out in the DC by-law.



Council Policy

Policy:

1. Definitions: In this policy,

“**agreement**” means a subdivision agreement, consent agreement, site plan agreement or other agreement authorized by the Planning Act or DC Act;

“**Building Code Act**” means the *Building Code Act*, S.O. 1992, Chap. 23, as amended, or any successor thereof;

“**building permit**” means a permission or authorization given in writing by the Chief Building Official for the construction or demolition of a building or structure, or part thereof, as defined in subsection 1(1) of Building Code Act;

“**Chief Building Official**” means the person appointed by Council to discharge the duties of the chief building official pursuant to the Building Code Act;

“**City**”, “**City of Kawartha Lakes**” or “**Kawartha Lakes**” means The Corporation of the City of Kawartha Lakes and includes its entire geographic area;

“**City Solicitor**” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

“**City Treasurer**” means the person appointed by Council to discharge the duties of the treasurer described in section 286 of the *Municipal Act, 2001*, S.O. 2001, Chap. 25, as amended, or any successor thereof;

“**condominium**” means a dwelling that is or is intended to be, as demonstrated by the owner to the City’s satisfaction, subject to the Condominium Act;

“**Condominium Act**” means the *Condominium Act, 1998*, S.O. 1998, Chap. 19, as amended, or any successor thereof;

“**Council**” or “**City Council**” means the municipal council for the City;

“**DC Act**” means the *Development Charges Act*, S.O. 1997, Chap. 27, as amended, or any successor thereof;

“**DC by-law**” means a by-law enacted by the City pursuant to the DC Act;

“**development**” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof, and includes redevelopment which may include demolition and or conversion of use;

“**development charge**” or “**DC**” means a charge imposed pursuant to City By-Law 2015-224, as amended, or any successor thereof;

“**Director of Development Services**” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

“**Director of Engineering and Corporate Assets**” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

“**dwelling**” means a residential building or structure, or part thereof, occupied or capable of being occupied as a home, residence or domestic establishment or habitat of some kind, but does not include motels, hotels, tents, truck campers, tourist trailers, mobile camper trailers or boarding, lodging or rooming houses of any kind;

“**dwelling unit**” means any part, which may include the entirety of, a dwelling used, designed or intended to be used exclusively by one or more cohabitating persons;

“**high-density dwelling**” means a dwelling comprised of 6 or more dwelling units and is, as determined by the Chief Building Official, subject to the apartment component of the residential schedule of DC rates prescribed by the DC by-law;

“**Manager of Corporate Assets**” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

“**occupancy**” means, as determined by the Chief Building Official, the occupancy of development in accordance with the Building Code Act;

“**owner**” means the owner of land, or successor thereof, or a person who has made application for an approval for the development of land upon which a development charge is imposed;

“**Planning Act**” means the *Planning Act*, R.S.O. 1990, Chap. 13, as amended, or any successor thereof;

“**residential**” means lands, buildings or structures or any part thereof used, designed or intended to provide accommodation or quarters for living, sleeping, sanitary and culinary purposes, or otherwise to serve as a domestic residence, that is, as determined by the Chief Building Official, subject to the residential schedule of DC rates prescribed by the DC by-law.

“**significant residential development**” means a residential development comprised of 6 or more dwelling units.

2. Development Charge Deferral Program: The deferral of DCs is to be facilitated by an application-based Development Charge Deferral Program managed by the City and guided by this policy. The granting of a deferral is not automatic and is subject to

conditions intended to protect the City's interests and provide the City with adequate assurances.

3. **Program Eligibility:** An owner is eligible to submit an application under the Development Charge Deferral Program only if the owner is in good standing with the City by meeting the following criteria to the City's satisfaction as of the time of application:
 - (a) the owner has a clean history with the City with respect to financial transactions and fulfillment of development-related obligations; and
 - (b) the owner is not engaged, and does not expressly intend to engage, in litigation against the City.

4. **Deferral Options:** Under the Development Charge Deferral Program, an eligible owner may apply for one or more of the following deferral options, subject to applicability to the owner's development, as detailed in the Appendix attached hereto:
 - (a) Deferral to Condominium Registration and Occupancy
 - (b) Deferral by Phase-In
 - (c) Deferral to Occupancy
 - (d) Deferral to Building Permit Issuance

5. **Agreements:** Upon successful application by an owner under the Development Charge Deferral Program, and subject to the mutual consent of the City and the owner, all terms and conditions pertaining to the approved DC deferral are to be included in an agreement entered into by the City and the owner. Agreements are to be registered on title of the owner's lands to which the subject DCs relate, and are to provide for, but not necessarily be limited to:
 - (a) the timing of the calculation and payment of DCs;
 - (b) securities for the owner's obligations under the agreement;
 - (c) powers available to the City to regulate and enforce DC payments;
 - (d) remedies available to the City in the event of the owner's default; and
 - (e) the allocation to or recovery from the owner of the administrative, interest, legal and other costs to the City of granting and facilitating the deferral of DCs.

6. **Calculation of DC Payments:** DC payments pursuant to an agreement are to be calculated in accordance with the DC rates applicable to the development approved by the agreement and in effect at the time payment is made or the time payment is due

pursuant to the agreement, whichever occurs first. As set out in the agreement, late DC payments are to be subject to interest and administrative charges.

7. **Securities:** Any Letters of Credit and or other securities issued by the owner for any original purpose under an agreement shall also secure deferred DCs, which, subject to a satisfactory risk assessment, is to occur without the total value of securities increasing beyond that required for the original purpose. However, agreements are to provide for the withholding of the release of securities so long as, and to the extent that, the value of outstanding secured obligations, including deferred DCs as notionally calculated at DC rates in effect at the time of evaluation, exceeds the value of unreleased securities.
8. **Enforcement:** Should an owner fall into default of DC payments under an agreement, the City may:
 - (a) revoke the owner's good standing with the City, thus making the owner ineligible for the Development Charge Deferral Program, for an indefinite or any period of time;
 - (b) where provided for under the agreement, (i) draw upon available securities, (ii) withhold the discharge of registration of the agreement on title and or (iii) withhold the issuance of building permits until the owner corrects the default to the City's satisfaction; and
 - (c) as authorized by subsection 32(1) of the DC Act, invoke subsection 7.08 of the DC by-law to collect outstanding DCs from the owner in the same manner as property taxes.
9. **Staff Approval:** Prior to an agreement being presented to Council for approval or executed, DC deferral provisions contained therein require approval by the following staff in a position to evaluate DC deferrals against risk tolerance and other factors relevant to protecting the City's interests: (i) Director of Engineering and Corporate Assets, (ii) Manager of Corporate Assets, (iii) Director of Development Services, (iv) City Solicitor and (v) City Treasurer.
10. **Council Approval:** Prior to an agreement with DC deferral provisions being executed, it must be supported by a resolution of Council if it is a subdivision agreement or consent agreement pursuant to subsection 5.06 of the DC by-law.
11. **Administration, Review and Revision:** This policy is to be administered by the Manager of Corporate Assets, under direction of the Director of Engineering and Corporate Assets, and is to be reviewed by him or her prior to the amendment or enactment of a DC by-law. This policy may be revised only by resolution of Council.
12. **Interpretation and Construction:** Headings herein are used for reference only and are not to affect the interpretation or construction of this policy. This policy is not to be interpreted or construed so as to limit any of the rights, remedies or powers of, or available to, the City.



Council Policy

13. **Force and Effect:** This policy shall come into force and effect upon approval by resolution of Council.

Revision History:

This is the first version of the policy. The table below notes policy history and time of anticipated revision:

Version	Date	Description of Changes	Requested By
1.0	September 20, 2016	Initial release.	Council
1.1	DC By-Law Amendment or Enactment		

Appendix:

The detailed descriptions of the options for DC deferral referred to above are as follows:

- (a) **Deferral to Condominium Registration and Occupancy:** This deferral option is available to condominium dwellings only. Under this option, DC payments in respect of dwelling units approved under an agreement are due as follows:
- i. in respect of dwelling units that are occupied by the time the condominium dwelling is registered under the Condominium Act, DCs are due upon registration of the condominium dwelling;
 - ii. in respect of each of the balance of dwelling units, DCs are due upon occupancy of the dwelling unit; and
 - iii. notwithstanding the foregoing, DCs for all dwelling units must be paid on or before the third anniversary of the agreement.
- (b) **Deferral by Phase-In:** This deferral option is available to high-density dwellings only, including those that are also condominiums. Under this option, DC payments in respect of the first and second halves of the dwelling units approved under an agreement, as approximated by the agreement if the number of dwelling units is odd, are, respectively, due at 1.5 and 3 years from time of agreement.
- (c) **Deferral to Occupancy:** This deferral option is available to significant residential development only, other than high-density dwellings. Under this option, DC payments in respect of each dwelling unit approved under an agreement are due upon occupancy of the dwelling unit, subject to a maximum 3-year period of deferral from time of agreement.



Council Policy

- (d) Deferral to Building Permit Issuance: This deferral option is available to all development. Under this option, DC payments in respect of development approved under an agreement are due upon building permit issuance for the development, subject to a maximum 3-year period of deferral from time of agreement.



Council Policy

Council Policy No.:	CA2016-001
Council Policy Name:	Development Charge Deferral Policy
Date Approved by Council:	September 20 th , 2016
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Related SOP, Management Directive, Council Policy, Form	

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“**Council**” or “**City Council**” means the municipal council for the City;

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“**DC by-law**” means a by-law enacted by the City pursuant to the DC Act;

“**development**” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof, and includes redevelopment which may include demolition and or conversion of use;

“**development charge**” or “**DC**” means a charge imposed pursuant to City By-Law 2015-224, as amended, or any successor thereof;

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“Director of Engineering and Corporate Assets” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

“dwelling” means a residential building or structure, or part thereof, occupied or capable of being occupied as a home, residence or domestic establishment or habitat of some kind, but does not include motels, hotels, tents, truck campers, tourist trailers, mobile camper trailers or boarding, lodging or rooming houses of any kind;

“dwelling unit” means any part, which may include the entirety of, a dwelling used, designed or intended to be used exclusively by one or more cohabitating persons;

“high-density dwelling” means a dwelling comprised of 6 or more dwelling units and is, as determined by the Chief Building Official, subject to the apartment component of the residential schedule of DC rates prescribed by the DC by-law;

“Manager of Corporate Assets” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

“occupancy” means, as determined by the Chief Building Official, the occupancy of development in accordance with the Building Code Act;

“owner” means the owner of land, or successor thereof, or a person who has made application for an approval for the development of land upon which a development charge is imposed;

“Planning Act” means the *Planning Act*, R.S.O. 1990, Chap. 13, as amended, or any successor thereof;

“residential” means lands, buildings or structures or any part thereof used, designed or intended to provide accommodation or quarters for living, sleeping, sanitary and culinary purposes, or otherwise to serve as a domestic residence, that is, as determined by the Chief Building Official, subject to the residential schedule of DC rates prescribed by the DC by-law.

2. **Development Charge Deferral Program**: The deferral of DCs is to be facilitated by an application-based Development Charge Deferral Program managed by the City and guided by this policy. The granting of a deferral is not automatic and is subject to conditions intended to protect the City’s interests and provide the City with adequate assurances.

3. Program Eligibility: An owner is eligible to submit an application under the Development Charge Deferral Program only if the owner is in good standing with the City by meeting the following criteria to the City's satisfaction as of the time of application:
 - (a) the owner has a clean history with the City with respect to financial transactions and fulfillment of development-related obligations; and
 - (b) the owner is not engaged, and does not expressly intend to engage, in litigation against the City.

4. Deferral Options: Under the Development Charge Deferral Program, an eligible owner may apply for one or more of the following deferral options, subject to applicability to the owner's development, as detailed in the Appendix attached hereto:
 - (a) Deferral to Condominium Registration and Occupancy
 - (b) Deferral by Phase-In
 - (c) Deferral to Occupancy
 - (d) Deferral to Building Permit Issuance

5. Agreements: Upon successful application by an owner under the Development Charge Deferral Program, and subject to the mutual consent of the City and the owner, all terms and conditions pertaining to the approved DC deferral are to be included in an agreement entered into by the City and the owner. Agreements are to be registered on title of the owner's lands to which the subject DCs relate, and are to provide for, but not necessarily be limited to:
 - (a) the timing of the calculation and payment of DCs;
 - (b) securities for the owner's obligations under the agreement;
 - (c) powers available to the City to regulate and enforce DC payments;
 - (d) remedies available to the City in the event of the owner's default; and
 - (e) the allocation to or recovery from the owner of the administrative, interest, legal and other costs to the City of granting and facilitating the deferral of DCs.

6. Calculation of DC Payments: DC payments pursuant to an agreement are to be calculated in accordance with the DC rates applicable to the development approved by the agreement and in effect at the time payment is made or the time payment is due pursuant to the agreement, whichever occurs first. As set out in the agreement, late DC payments are to be subject to interest and administrative charges.

7. **Securities:** Any Letters of Credit and or other securities issued by the owner for any original purpose under an agreement shall also secure deferred DCs, which, subject to a satisfactory risk assessment, is to occur without the total value of securities increasing beyond that required for the original purpose.
8. **Enforcement:** Should an owner fall into default of DC payments under an agreement, the City may:
 - (a) revoke the owner's good standing with the City, thus making the owner ineligible for the Development Charge Deferral Program, for an indefinite or any period of time;
 - (b) where provided for under the agreement, (i) draw upon available securities, (ii) withhold the discharge of registration of the agreement on title and or (iii) withhold the issuance of building permits until the owner corrects the default to the City's satisfaction; and
 - (c) as authorized by subsection 32(1) of the DC Act, invoke subsection 7.08 of the DC by-law to collect outstanding DCs from the owner in the same manner as property taxes.
9. **Staff Approval:** Prior to an agreement being presented to Council for approval or executed, DC deferral provisions contained therein require approval by the following staff in a position to evaluate DC deferrals against risk tolerance and other factors relevant to protecting the City's interests: (i) Director of Engineering and Corporate Assets, (ii) Manager of Corporate Assets, (iii) Director of Development Services, (iv) City Solicitor and (v) City Treasurer.
10. **Council Approval:** Prior to an agreement with DC deferral provisions being executed, it must be supported by a resolution of Council if it is a subdivision agreement or consent agreement pursuant to subsection 5.06 of the DC by-law.
11. **Administration, Review and Revision:** This policy is to be administered by the Manager of Corporate Assets, under direction of the Director of Engineering and Corporate Assets, and is to be reviewed by him or her prior to the amendment or enactment of a DC by-law. This policy may be revised only by resolution of Council.
12. **Interpretation and Construction:** Headings herein are used for reference only and are not to affect the interpretation or construction of this policy. This policy is not to be interpreted or construed so as to limit any of the rights, remedies or powers of, or available to, the City.
13. **Force and Effect:** This policy shall come into force and effect upon approval by resolution of Council.

Revision History:

This is the first version of the policy. The table below notes policy history and time of anticipated revision:

Version	Date	Description of Changes	Requested By
1.0	September 20, 2016	Initial release.	Council
1.1	DC By-Law Amendment or Enactment		

Appendix:

The detailed descriptions of the options for DC deferral referred to above are as follows:

- (a) Deferral to Condominium Registration and Occupancy: This deferral option is available to condominium dwellings only. Under this option, DC payments in respect of dwelling units approved under an agreement are due as follows:
 - i. in respect of dwelling units that are occupied by the time the condominium dwelling is registered under the Condominium Act, DCs are due upon registration of the condominium dwelling;
 - ii. in respect of each of the balance of dwelling units, DCs are due upon occupancy of the dwelling unit; and
 - iii. notwithstanding the foregoing, DCs for all dwelling units must be paid on or before the third anniversary of the agreement.
- (b) Deferral by Phase-In: This deferral option is available to high-density dwellings only, including those that are also condominiums. Under this option, DC payments in respect of the first and second halves of the dwelling units approved under an agreement, as approximated by the agreement if the number of dwelling units is odd, are, respectively, due at 1.5 and 3 years from time of agreement.
- (c) Deferral to Occupancy: This deferral option is available to residential development only, other than high-density dwellings. Under this option, DC payments in respect of each dwelling unit approved under an agreement are due upon occupancy of the dwelling unit, subject to a maximum 3-year period of deferral from time of agreement.
- (d) Deferral to Building Permit Issuance: This deferral option is available to all development. Under this option, DC payments in respect of development approved under an agreement are due upon building permit issuance for the development, subject to a maximum 3-year period of deferral from time of agreement.