

Council Policy No.:	CP2019-005
Council Policy Name:	Development Charges Assistance Policy
Date Approved by Council:	December 10, 2019
Date revision approved by Council:	
Related SOP, Management Directive, Council Policy, Forms	

Policy Statement and Rationale:

Development charges (DCs) represent a significant 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:

In accordance with the Development Charges Act, the City's DC by-law authorizes the City to do the following through Council policy:

Override the default timing of the calculation and payment of DCs; and

Override the default period during which a redevelopment credit may be obtained.

This policy establishes a guiding framework for the City's exercising of the foregoing powers.

Policy Principles:

This policy is intended to promote economic competitiveness and prosperity subject to providing adequate protection of the interests of the City and its ratepayers.

Policy:

1. **Definitions:** In this policy, any term defined in the City's DC by-law carries the same meaning as set out in that by-law, and furthermore

“agreement” means a subdivision agreement, consent agreement or site plan agreement entered into by the City to approve or facilitate development, a special agreement arising from the implementation of this policy or another agreement entered into by the City to which development may be subject;

“condominium” means a dwelling that is subject to the Condominium Act;

“DC” means development charge or development charges, as context requires;

“DC by-law” means the successor to By-Law 2019-224 (A By-Law to Impose Development Charges in the City of Kawartha Lakes), or any successor thereof;

“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 set out in the DC by-law;

“litigation” means any legal action through any court with jurisdiction in the Province of Ontario; and

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

2. **Deferral of Development Charges:** As permitted by subsection 4.07 of the DC by-law, this section establishes the guidelines for the granting of DC deferrals for targeted types of development.

(a) **Deferral Eligibility:** An owner is eligible to apply for a DC deferral only if he or she:

- i. has, in the City Treasurer's determination, a clean history with the City with respect to financial and development-related obligations to the City; and
- ii. is, in the City Solicitor's determination, not engaged, and does not expressly intend to engage, in litigation against the City or any of its local boards.

(b) **Deferral Application:** An application by an eligible owner for a DC Deferral consists of a letter by the owner to the Manager of Corporate

Assets identifying the subject land, describing the owner's proposed development and outlining the owner's rationale for the requested DC deferral according to its type and, if applicable, length.

- (c) **Deferral Options:** An eligible owner may apply for one of the following deferral options, as defined in Appendix A attached hereto and as may be applicable to the owner's proposed development:
- i. Deferral to Condominium Registration and Occupancy;
 - ii. Deferral by Phase-In;
 - iii. Deferral to Occupancy; or
 - iv. Deferral for Specified Period.
- (d) **Deferral Approval:** Upon receipt of a complete and valid application for a DC deferral by an eligible owner, the application shall be approved by the Manager of Corporate Assets, and notice of such given by he or she to the owner in writing, if the City Treasurer determines the City's financial capacity and risk tolerance are sufficient to sustain the DC deferral in a fiscally responsible manner.
- (e) **Agreement:** Once approved, a DC deferral shall be provided for through an agreement, which shall, wherever possible, be a subdivision, site plan or consent agreement, as may be applicable, pursuant to the Planning Act. An agreement shall be registered on title of the owner's lands to which the deferred DCs relate, and shall, among other things, provide for:
- i. the timing of the calculation and payment of deferred DCs, subject to such being determined in accordance with the applicable DC rates in effect at the time payment is made;
 - ii. securities for the owner's obligations under the agreement;
 - iii. powers available to the City to regulate and enforce DC payments;
 - iv. remedies available to the City in the event of the owner's default of his or her obligations under the agreement; and
 - v. allocation to or recovery from the owner of the administrative and interest costs incurred, and as reasonably estimated by, the City in granting and facilitating the DC deferral.

- (f) **Securities:** Securities issued to the City by the owner for any original purpose under an agreement shall, once no longer required for the original purpose, and at the City's discretion, become securities for deferred DCs facilitated by the agreement, and shall remain in effect until such time the deferred DCs are paid.

3. **Extension of Redevelopment Credit Obtainability Period:** As permitted by subsection 5.08 of the DC by-law, this section establishes the guidelines for the granting of an extension to the redevelopment credit obtainability period in certain cases. Such an extension is to relate to redevelopment of land on which a building or structure has been or is expected to be demolished or otherwise is or is expected to become unoccupiable, but in no case shall it exceed 7 years.

- (a) **Definition of Extension:** For the purposes of this section, "extension" means a period, in addition to the default 3-year period provided for in paragraph (c) of subsection 5.07 of the DC by-law, during which a redevelopment credit may be obtained in connection with a building or structure that was demolished or will be demolished or converted from one principal use to another principal use through redevelopment.
- (b) **Extension Eligibility:** An owner is eligible to apply for an extension if the subject building or structure was, as determined by the Chief Building Official, capable of being occupied within the 3-year period prior to the owner submitting an application in relation to the building or structure pursuant to paragraph 3(c) of this policy.
- (c) **Extension Application:** An application by an eligible owner for an extension consists of a letter by the owner to the Manager of Corporate Assets identifying the subject land, buildings and structures, describing the owner's proposed redevelopment and outlining the owner's rationale for the requested extension according to its type and length.
- (d) **Extension Options:** An owner may apply for one of the following types of extension as defined in Appendix B attached hereto and as may be applicable to the owner's proposed redevelopment:
 - i. Extension Based on Timely Redevelopment; or
 - ii. Extension Based on Timely Demolition.
- (e) **Extension Approval:** Upon the City's processing of a complete and valid application for an extension, which may involve a report to and or decision by Council, the Manager of Corporate Assets shall notify the subject owner, in writing, of the City's decision on the application.

- (f) **Onus on Owner:** The onus is on the owner whom has been granted an extension to, at the time the subject redevelopment credit is to be realized, produce evidence to the satisfaction of the Chief Building Official that the owner has indeed been granted the extension.
4. **Administration, Review and Revision:** This policy is to be administered by the Manager of Corporate Assets, and is to be reviewed by him or her in preparation for an amendment to or enactment of a DC by-law. This policy may be revised, replaced or rescinded only by resolution of Council.
5. **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.
6. **Force and Effect:** This policy shall come into force and effect at 12:01am on April 1, 2020.
7. **Succession:** Council Policy CP2016-020 (Development Charge Deferral Policy) is replaced and succeeded by this policy.

Revision History:

This policy succeeds Council Policy CP2016-020 (Development Charge Deferral 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
2.0	December 10, 2019	Major Expansion and Replacement	Development Charges Task Force
2.1	DC By-Law Amendment in Late 2020	Update Based on Effects of Bill 108 Regulations	Council

Appendix A: Development Charges Deferral Options

The options for DC deferrals referred to in paragraph 2(c) of this policy are defined 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 their occupancy; 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, other than condominium dwellings. 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 the time the agreement is executed.
- (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 the time the agreement is executed.
- (d) **Deferral for Specified Period:** This deferral option is available to non-residential development only. Under this option, DC payments in respect of development approved under an agreement are due in accordance with the agreement, subject to a maximum 3-year period of deferral from the time the agreement is executed.

Appendix B: Redevelopment Credit Obtainability Period Extension Options

The options for the extension of the redevelopment credit obtainability period referred to in paragraph 3(d) of this policy are defined as follows:

- (a) **Extension Based on Timely Redevelopment:** Under this option, the Manager of Corporate Assets, in consultation with the Chief Building Official and the Manager of Planning, may grant an extension of up to 3 years for a specific site for which the owner has, to the satisfaction of the Manager of Planning, demonstrated a credible commitment to redeveloping prior to expiry of the extension sought by the owner.
- (b) **Extension Based on Timely Demolition:** Under this option, Council may grant an extension of up to 7 years for a specific site encumbered with a derelict building or structure, of which timely demolition is, in Council's determination, in the public interest, such that the extension is granted to secure the owner's firm commitment, through an agreement, to:
 - i. obtain, for the purpose of demolition of the derelict building or structure, a building permit within 60 days of the agreement being executed; and
 - ii. ensure the derelict building or structure is demolished to the City's satisfaction within 6 months of the agreement being executed.