

**7. Implementation of Interest Rate on Development Charge Deferrals
Required Pursuant to Bill 108**

**Mise en œuvre du taux d'intérêt sur le report des redevances
d'aménagement conformément au projet de loi 108**

Committee recommendation

That Council resolve as follows:

1. for any development charges which became or become payable on or after January 1, 2020, and for which the applicant elects to defer payment in accordance with s. 26.1 of the *Development Charges Act, 1997* (as amended), an annual interest rate equal to the greater of (a) the Infrastructure Construction Price Index plus 0.5%, OR (b) the average annual rate at which the City issues debentures to fund development charge projects plus 0.5%, shall apply to the principal amount of the said charge outstanding; and,
2. for any development charges which, pursuant to s. 26.2 of the *Development Charges Act, 1997* are calculated as of the date on which either a site plan approval application is deemed complete or a zoning by-law amendment application in respect of the development is deemed complete, an annual interest rate equal to the greater of (a) the Infrastructure Construction Price Index plus 0.5%, OR (b) the average annual rate at which the City issues debentures to fund development charge projects plus 0.5%, shall apply to the amount of the development charge from the date of the said complete application to the date the development charge is payable, as permitted by subsection 26.2 (3) of the said *Act*.

Recommandation du Comité

Que le Conseil prenne les résolutions suivantes :

1. pour toute redevance d'aménagement exigible au plus tôt le 1er janvier 2020 que le demandeur choisit de payer plus tard conformément à l'article 26.1 de la *Loi de 1997 sur les redevances d'aménagement* (dans sa version modifiée), un taux d'intérêt annuel

équivalent au plus élevé des deux montants ci-après s'appliquera au montant principal de la redevance impayée : a) l'Indice des prix de la construction des infrastructures majoré de 0,5 %, OU b) le taux annuel moyen auquel la Ville émet des débentures pour financer des projets associés aux redevances d'aménagement majoré de 0,5 %; et,

2. pour toute redevance d'aménagement qui, aux termes de l'article 26.2 de la *Loi de 1997 sur les redevances d'aménagement*, est calculée le jour où la demande d'approbation du plan d'implantation ou la demande de modification du Règlement de zonage à l'égard du projet d'aménagement est jugée complète, le taux d'intérêt annuel applicable correspond au plus élevé des deux montants suivants : a) l'Indice des prix de la construction des infrastructures, majoré de 0,5 %, OU b) le taux annuel moyen auquel la Ville émet des débentures pour financer des projets associés aux redevances d'aménagement, majoré de 0,5 %. Les intérêts s'accumulent à compter de la date de ladite demande jusqu'à la date d'exigibilité de la redevance, conformément au paragraphe 26.2(3) de la *Loi*.

Documentation/Documentation

1. Report from the General Manager, Planning, Infrastructure and Economic Development department, and the City Solicitor, Innovative Client Services Department, dated January 23, 2020 (ACS2020-PIE-GEN-0001)

Rapport du Directeur général, Services de planification, d'infrastructure et de développement économique, et de l'Avocat général, Services novateurs pour la clientèle, daté le 23 janvier 2020 (ACS2020-PIE-GEN-0001)

**Planning Committee
Report 19
January 29, 2020**

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**Comité de l'urbanisme
Rapport 19
le 29 janvier 2020**

**Report to
Rapport au:**

**Planning Committee / Comité de l'urbanisme
January 23, 2020 / 23 janvier 2020**

**and Council / et au Conseil
January 29, 2020 / 29 janvier 2020**

**Submitted on January 23, 2020
Soumis le 23 janvier 2020**

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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2020-PIE-GEN-0001

**SUBJECT: Implementation of Interest Rate on Development Charge Deferrals
Required Pursuant to Bill 108**

**OBJET: Mise en œuvre du taux d'intérêt sur le report des redevances
d'aménagement conformément au projet de loi 108**

REPORT RECOMMENDATIONS

That Planning Committee recommend that Council resolve as follows:

1. For any development charges which became or become payable on or after January 1, 2020, and for which the applicant elects to defer payment in accordance with s. 26.1 of the *Development Charges Act, 1997* (as amended), an annual interest rate equal to the greater of (a) the Infrastructure Construction Price Index plus 0.5%, OR (b) the average annual rate at which the City issues debentures to fund development charge projects plus 0.5%, shall apply to the principal amount of the said charge outstanding; and,
2. For any development charges which, pursuant to s. 26.2 of the *Development Charges Act, 1997* are calculated as of the date on which either a site plan approval application is deemed complete or a zoning by-law amendment application in respect of the development is deemed complete, an annual interest rate equal to the greater of (a) the Infrastructure Construction Price Index plus 0.5%, OR (b) the average annual rate at which the City issues debentures to fund development charge projects plus 0.5%, shall apply to the amount of the development charge from the date of the said complete application to the date the development charge is payable, as permitted by subsection 26.2 (3) of the said *Act*.

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'urbanisme recommande au Conseil de prendre la résolution suivante :

1. Pour toute redevance d'aménagement exigible au plus tôt le 1er janvier 2020 que le demandeur choisit de payer plus tard conformément à l'article 26.1 de la *Loi de 1997 sur les redevances d'aménagement* (dans sa version modifiée), un taux d'intérêt annuel équivalent au plus élevé des deux

montants ci-après s'appliquera au montant principal de la redevance impayée : a) l'Indice des prix de la construction des infrastructures majoré de 0,5 %, OU b) le taux annuel moyen auquel la Ville émet des débentures pour financer des projets associés aux redevances d'aménagement majoré de 0,5 %; et,

2. Pour toute redevance d'aménagement qui, aux termes de l'article 26.2 de la *Loi de 1997 sur les redevances d'aménagement*, est calculée le jour où la demande d'approbation du plan d'implantation ou la demande de modification du Règlement de zonage à l'égard du projet d'aménagement est jugée complète, le taux d'intérêt annuel applicable correspond au plus élevé des deux montants suivants : a) l'Indice des prix de la construction des infrastructures, majoré de 0,5 %, OU b) le taux annuel moyen auquel la Ville émet des débentures pour financer des projets associés aux redevances d'aménagement, majoré de 0,5 %. Les intérêts s'accumulent à compter de la date de ladite demande jusqu'à la date d'exigibilité de la redevance, conformément au paragraphe 26.2(3) de la *Loi*.

BACKGROUND

This report recommends that Council approve interest rates related to development charges:

1. an interest rate for development charges that have been or will be deferred under amendments to the *Development Charges Act* which came into force on January 1, 2020.
2. an interest rate that applies to the amount of the development charge for the period between the application for site plan or zoning by-law approval and the date that the said charge becomes payable (usually building permit issuance).

The Government of Ontario introduced Bill 108, *More Homes, More Choice Act, 2019*, for first reading on May 2, 2019. The Bill was part of the provincial government's plan to tackle Ontario's housing crisis and contains 13 schedules which affect 15 Acts. Bill 108 received Royal Assent and passed into law as of June 6, 2019. Elements of this amending legislation are not yet in effect and will come into force on a later date, to be proclaimed.

On December 20, 2019 the Province proclaimed into force certain provisions of the Bill 108 amendments to the *Development Charges Act* effective as of January 1, 2020.

These provisions specifically include a new section, 26.1, which permits applicants for the following types of development to defer development charges:

- Development of “rental housing” and “institutional development” may be deferred for six annual payments; and
- deferral for non-profit development may be deferred for 21 annual payments.

Amended S. 26.1 (7) states that the City “may charge interest on [the DC instalments] from the date the development charge would have been payable [...] to the date the instalment is paid, at a rate not exceeding the prescribed maximum interest rate.”

Bill 108 had initially included “industrial” and “commercial” development in this deferral provision, but the Province removed this with amending legislation, Bill 138, which received Royal Assent on December 10, 2019.

Under new subsection 26.2 the manner in which development charges are calculated has changed. Currently development charges are calculated at the time they become payable, usually upon issuance of a building permit. S. 26.2 provides that development charges, after January 1, 2020, shall be calculated based on the date on which the owner applied for either (a) site plan approval or (b) a zoning by-law amendment related to the development. As several years can elapse from the said development application dates and the date of building permit issuance, this change may permit some applicants to “lock in” a development charge rate that is lower than the development charge rate that would have been applicable at the time of building permit issuance. Recently adopted regulations limit this effect by adopting a two year limit during which the development charge calculation can be “frozen,” after which it is calculated as of the date of permit issuance. Additionally, subsection 26.2 (3) allows municipalities to adopt an interest rate that is applicable to the development charge amount during the “frozen” period between the application for development approval and the charge becoming payable. This latter subsection appears to permit municipalities to recover lost revenue which would have been available if the former approach to calculating development charges was followed.

The Ministry of Municipal Affairs and Housing published a regulation (O. Reg. 454/19, amending O. Reg 82/98) which implements the deferral of Development Charges provided under new section 26.1. The regulation sets neither a maximum nor a minimum interest rate. Additionally, the regulation does prescribe an interest rate applicable to the “frozen” period created by section 26.2.

DISCUSSION

Resolution item 1:

Need for a Resolution establishing a 26.1 (7) Interest Rate:

If the City wishes to collect interest on deferred development charges which became or will become payable on or after January 1, 2020, it is necessary that Council enact a resolution to that effect.

Amending regulation O. Reg. 454/19 (published online on December 20, 2019, amending O. Reg 82/98) addresses definitions of terms in amended s. 26.1, but the “maximum” interest rate is not prescribed, nor is any “default” interest rate prescribed. The transition provision (new section 26.1(10)) merely states that the deferral provisions in s. 26.1 applies to development charges payable once the corresponding section of Bill 108 comes into force. Therefore, the new deferral provisions are not retroactive, but will apply immediately to any development charges payable on January 1 and thereafter.

Without an interest rate prescribed in the regulations to the *Development Charges Act* and without action by Council to impose such a rate, the rate will effectively be 0% in Ottawa. Accordingly, Staff are recommending that Council adopt an appropriate interest rate.

Currently, development charges are usually collected at building permit issuance, however, the new deferral payment plan will impact cash flow since there will be a delay in the receipt of revenues required to fund the hard services needed to pay for infrastructure. When the City commits to constructing infrastructure for growth, it assumes that development will occur as planned. For the City, this deferral option represents a higher financial risk since services will be in place awaiting development, but the payments required to fund the infrastructure will occur over a longer timeframe. This will result in additional financial challenges if the rates being collected as identified in the development charges background study and by-law are less than the actual costs of construction. In order to mitigate the risk to the City the following interest rate options are being proposed.

Recommendation as to Appropriate 26.1 (7) Rate:

No specific legal limitations are imposed on the interest rate setting process that Council may adopt. Staff, therefore, recommend that Council adopt a rate equal to the greater of

(a) the Infrastructure Construction Price Index plus 0.5% or (b) the average annual rate at which the City issues debentures to fund development charge projects plus 0.5%. The first option is currently used for indexing the various development charge rates on an annual basis. The second option represents the actual interest rate that is applied to the debt used as a source of financing eligible growth-related capital projects. By basing the carrying costs on either of these interest rate options, the City is ensuring that the fiscal framework requirement to offset the cost of growth to the full extent permitted by legislation is met, thereby minimizing the financial impact on existing residents.

Resolution item 2:

Need for a Resolution establishing a 26.2 (3) Rate

As addressed above, the City may establish an interest rate applicable to the period during which development charges are “frozen” – i.e. between the date of development approval application and the date it becomes payable. The new 26.2 regime has the potential to result in short-term lost revenue as applicants will not be subject to development charge increases after they have “locked in” their development charge rate at the time of development approval application. Enacting an interest rate would permit the City to off-set such lost revenue.

Recommendation as to Appropriate 26.2 (3) Rate:

No specific legal maximum or minimum interest rate is prescribed for the purposes of subsection 26.2 (3). Staff recommends a similar interest rate calculation be applied as that discussed above, for the same reasons discussed above. Specifically, Staff recommends that Council adopt a rate equal to the greater of (a) the Infrastructure Construction Price Index plus 0.5% or (b) the average annual rate at which the City issues debentures to fund development charge projects plus 0.5% to be applicable to the amount of the development charge for the period commencing on the date on which the said application is deemed complete and ending on the date on which the development charge is payable.

RURAL IMPLICATIONS

The implications of this report are City-wide.

CONSULTATION

Not applicable.

COMMENTS BY THE WARD COUNCILLORS

This is a city-wide report - not applicable.

LEGAL IMPLICATIONS

There are no legal impediments to implementing the recommendations of this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications associated with this report.

FINANCIAL IMPLICATIONS

There are no net financial implications. Interest revenues will fund carrying costs associated with deferred development charges.

ACCESSIBILITY IMPACTS

There are no anticipated accessibility impacts associated with this report.

TERM OF COUNCIL PRIORITIES

Not applicable.

DISPOSITION

If the recommendations of this report are adopted by Council, Staff shall implement Council's resolution with respect to any development applications to which it is applicable.