

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 5320-21**

**A BY-LAW TO ENACT CORPORATE POLICY - DEVELOPMENT
CHARGES POLICY FOR THE CORPORATION OF THE TOWN OF
NIAGARA-ON-THE-LAKE (Sections 26.1 and 26.2)**

BE IT ENACTED AS A BY-LAW OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE as follows:

1. THAT the Development Charges Policy for The Corporation of the Town of Niagara-on-the-Lake, be and the same is hereby approved; and
2. THAT the Lord Mayor and Town Clerk be authorized to affix their hands and the Corporate Seal; and
3. THAT this by-law shall come into force and take effect immediately upon the passing thereof.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 17TH DAY
OF MAY 2021**

LORD MAYOR BETTY DISERO

TOWN CLERK PETER TODD



The Town of Niagara-On-The-Lake

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POLICY

Policy No.: Draft

Approved on:

By-Law No.:

Effective on:

Supersedes:

Report To: Corporate Services Advisory Committee
Title/Subject: Development Charges Policy for Section 26.1 and 26.2 of the Development Charges Act

PURPOSE

To ensure there is clear guidance around section 26.1 and 26.2 of the Development Charges Act, 1997. This policy establishes the conditions, duration, terms and other requirements on when and how the Town determines the total amount of a development charge, the instalment methodology for eligible development types and the applicable interest rates as outlined in the Development Charges Act, 1997.

POLICY STATEMENT

This policy applies to certain types of development as outlined under Section 26.1 and 26.2 of the Development Charges Act, 1997.

1. LEGISLATIVE FRAMEWORK

1.1 Timing for development charge calculation amount under section 26.2 of the Act: Under subsection 26.2 (1) of the Act, the total amount of a development charge (i.e. rate) is determined under The Town of Niagara-on the-Lake's Development Charge Bylaw in effect on:

1.1.1 The day an application for an approval of development under subsection 41 (4) of the Planning Act was made, or

1.1.2 If clause 1.1.1 does not apply, the day an application for an amendment to a bylaw passed under section 34 of the Planning Act was made, or

1.1.3 If neither clause 1.1.1 nor 1.1.2 applies, the date the development charges would have been payable under section 26 of the Act which is normally building permit issuance as per By-law 2017-98 unless permitted otherwise through section 26.1 of the Development Charges Act.

1.2 By-law not in effect:

Under subsection 26.2 (2) of the Act, subsection 26.1 (1) applies even if the by-law under which the development charge would be determined is no longer in effect.

1.3 Interest under section 26.2 of the Act:

Under subsection 26.2 (3) of the Act, Niagara Region may charge interest on the development charge, at a rate not exceeding the prescribed maximum interest rate, from the date of the application referred to in clause 1.1.1 or 1.1.2 to the date the development charge is payable.

1.4 Exception, prescribed amount of time elapsed:

The dates as determined under sections 1.1.1 and 1.1.2 do not apply if any part of a development to which section 26.1 applies if, on the date the first building permit is issued for the development, more than 2 years has elapsed since the application referred to in clause 1.1.1 or 1.1.2 was approved as defined in section 11.2 O. Reg. 82/98;

2. Legislative Framework – Development Charge Instalments

2.1 Instalment Payments under section 26.1 of the Act and as defined in O.Reg 82/98.

Under subsections 26.1 (1), (2) and (3) of the Act, development charges shall be paid in equal annual instalments, beginning at the earlier of first occupancy or occupancy permit issuance date under the Building Code, Act, 1992 for:

2.1.1 Rental housing development that is not non-profit housing as defined under section 11.1 (1) of O. Reg 82/98 as per section 3 (a) of the Act;

2.1.2 Institutional development as defined under section 11.1 (2) if O. Reg. 82/98 as per section 3 (a) of the Act; and

2.1.3 Non-profit housing development as defined under section 11.1 (3) of O. Reg. 82/98 as per section 3 (b) of the Act.

2.2 A non-profit housing development under 2.1.3 shall pay their first payment at occupancy and the following 20 anniversaries after that date (21 equal payments).

- 2.3** Both a rental housing development and institutional development as described under 2.1.1 and 2.1.2 shall pay their first payment at occupancy and the following five anniversaries after that date (six equal payments).
- 2.4** All other development shall pay their development charges upon the issuance of a building permit unless an early or late payment agreement has been entered into under subsection 27 (1) of the Act.
- 2.5** Interest under section 26.1 of the Act:
Subsection 26.1 (7) of the Act allows a municipality to charge interest on the instalments from the date the development charges would have been payable under section 26 of the Act.

3. Policy

- 3.1** The applicant shall be notified of the Application Approval date for the purposes of Section 26.2 of the Development Charges Act by the Town of Niagara-on-the-Lake.

3.2 Application Appeal

Should any decision by the Town on the application(s) as noted under section 1.1.1 and 1.1.2 be appealed, The Town's decision regarding how interest charges were calculated will stand until final resolution of the appeal.

3.2.1 Should a decision on an unapproved application be successfully appealed, the application made date will apply to section 1.1.1 or 1.1.2 of this policy and the application approval date shall be the date the appeal is approved.

3.2.2 Should a decision on an approved application be upheld, the application made date will apply to section 1.1.1 or 1.1.2 of this policy and the application approval date shall be the date the decision is upheld.

3.2.3 Should a decision on an approved application be successfully appealed or a decision on an unapproved application be upheld, the application made date will not apply to sections 1.1.1 and 1.1.2 of this policy.

3.3 Interest on Development Charges for Subsection 26.2 (3) of the Act

Interest will be charged at the rate established in the Procedure on the development charge, from the date of the application referred to in clause 1.1.1 or 1.1.2 of this policy, to the date the development charge is payable.

3.4 Final Determination of Total Payable Development Charges

On the day the development charge(s) is first payable, the final determination of the total payable development charge(s) shall be made.

3.5 Transition

Clauses 1.1.1 and 1.1.2 do not apply in the case of an application made before January 1, 2020 as per subsection 26.2 (6) of the Act.

3.6 Acknowledgment Letter

For all eligible development under section 26.1 of the Act an Acknowledgement Letter will be provided to the applicant / property owner at the time of building permit issuance outlining the terms of the development charge annual instalments as per the Act and Region policy.

3.7 Notice of Occupancy

3.7.1 The person responsible to pay development charges shall notify both the Town of Niagara-on-the-Lake and Niagara Region in writing within five business days of the building first being occupied unless an occupancy permit has been issued by The Town of Niagara-on-the-Lake for the purposes of section 26.1 of the Act.

3.7.2 Under subsection 26.1 (6) of the Act, failure to comply with the occupancy notice requirement under 3.7.1 will result in the development charge including any interest payable becoming payable immediately.

3.7.3 If the person responsible to pay development charges receives an occupancy permit issued by The Town of Niagara-on-the-Lake, the The Town will notify the Niagara Region within five business days for the purposes of section 26.1 of the Act.

3.8. Interest on Instalments for Subsection 26.1 (7) of the Act

3.8.1 Interest will be charged on instalments at the rate found in section 3.12 from the date the development charge would have been payable in accordance with section 26 of the Act and The Town's Development Charge by-law.

3.9 Schedule of Instalment Payments

3.9.1 The Town of Niagara-on-the-Lake will provide an Instalment Payment Schedule to the person required to pay development charges for the Town's portion of Development Charges once notified of occupancy. The Niagara Region will provide a separate schedule for Regional Development Charges.

3.9.2 Acknowledgement of the Instalment Payment Schedule and the first instalment payment shall be due within 15 days of the Instalment Payment Schedule being provided. It will be the responsibility of the person responsible to pay development charges to provide payment in a prompt and timely manner as per the schedule, no further notification of upcoming payments will be given.

3.10 Termination of the Instalment Schedule

The remaining balance of all development charges shall be payable within 15 days immediately following the notification / determination of any of these trigger events:

- a. Change of use to a development type that is not eligible for development charge instalments under the Act, as of the day the change is made.
- b. Sale or transfer of ownership.
- c. If the balance of Town development charges owing plus any accrued interest as per the instalment schedule is paid to The Town of Niagara-on-the-Lake.

3.11 Unpaid Development Charges

3.11.1 If any development charges (including interest) are unpaid, those development charges (including interest) may (at the discretion of the Treasurer) be added to the tax roll and collected in the same manner as taxes, in accordance with section 32 of the Act.

3.11.2 Interest on late payments added to the tax roll shall incur the applicable taxation interest rate (as provided under section 345 of the Municipal Act, 2001).

3.12 Interest Rate Used

3.12.1 An interest rate shall be used for the purposes of section 26.1 and 26.2 and shall be made available on The Town's website under the development charges page.

3.12.2 Notwithstanding clause 3.12.1, an interest rate of 0% shall be used for the purpose of section 26.1 and 26.2 for the following types of development:

- a. Non-profit housing development as defined under section 11.1 (3) of O. Reg. 82/98.

3.13 Late Payment Penalty and Interest on unpaid Development Charge

3.13.1 All development charge instalment (including interest) that are unpaid as per the criteria established under section 26.1 of the Act, will be subject to a Town administration fee as per the Town's user fee by-law and may also be added to the tax roll and collected in the same manner as taxes, in accordance with section 32 of the Act.

3.13.2 Interest on late payments added to the tax roll shall incur the applicable taxation interest rate as established by the Town.

ATTACHMENTS

WEB ATTACHMENTS

ATTACHMENTS FOR LINK

First Capital of Upper Canada - 1792