

August 8, 2022

1. Policy Statement and Purpose

The purpose of this policy is to establish the timing and rules for development charge calculations, as required under section 26.2 of the Development Charges Act, 1997. This policy establishes the conditions, duration, terms and other requirements on when and how the Municipality of Chatham-Kent 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 Charge Act.

2. Scope

This policy applies to all development eligible under section 26.2 and 26.1 of the Development Charges Act, 1997.

3. Definitions

The following definitions apply to this Policy:

“The Act” refers to the Development Charges Act, 1997, S.O. 1997, c. 27, as amended, revised, re-enacted or consolidated from time to time, and any successor statute.

“The Municipality” refers to the Municipality of Chatham-Kent.

4. General Provisions

Legislative Framework – Calculation of Development Charges

4.1 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 Municipality’s Development Charge Bylaw in effect on:

- 4.1.1** The day an application for an approval of development under subsection 41 (4) of the Planning Act was made, or
- 4.1.2** If clause 4.1.1 does not apply, the day an application for an amendment to a bylaw passed under section 34 of the Planning Act was made, or

4.1.3 If neither clause 4.1.1 nor 4.1.2 applies, the date the development charges would have been payable under section 26 of the Act which is normally building permit issuance as per the Municipality's Development Charge By-law No.149-2022 unless permitted otherwise through section 26.1 of the Development Charges Act.

4.2 By-law not in effect

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of the Act, subsection 26.2 (1) applies even if the by-law under which the development charge would be determined is no longer in effect.

4.3 Interest under section 26.2 of the Act:

Under subsection 26.2 (3) of the Act, the Municipality 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 4.1.1 or 4.1.2 to the date the development charge is payable.

4.4 Exception, prescribed amount of time elapsed

The dates as determined under sections 4.1.1 and 4.1.2 do not apply if:

4.4.1 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 two years has elapsed since the application referred to in clause 4.1.1 or 4.1.2 was approved as defined in section 11.2 O. Reg. 82/98.

5. Legislative Framework – Development Charge Instalments

5.1 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:

5.1.1 Rental housing development that is not non-profit housing as defined under section 11.1 (1) of O. Reg 82/98 as per section 26.1 (3) (a) of the Act;

5.1.2 Institutional development as defined under section 11.1 (2) of O. Reg. 82/98 as per section 26.1 (3) (a) of the Act; and

5.1.3 Non-profit housing development as defined under section 11.1 (3) of O. Reg. 82/98 as per section 26.1 (3) (b) of the Act.

5.2 A non-profit housing development under 5.1.3 shall pay their first payment at occupancy and the following 20 anniversaries after that date (21 equal payments).

- 5.3** Both a Rental housing development and institutional development as described under 5.1.1 and 5.1.2 shall pay their first payment at occupancy and the following five anniversaries after that date (six equal payments).
- 5.4** 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.
- 5.5** 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.

6. Policy

- 6.1** The applicant shall be notified of the Application Approval date for the purposes of Section 26.2 of the Development Charges Act by the Municipality.
- 6.2** 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 4.1.1 or 4.1.2 of this policy, to the date the development charge is payable.

- 6.3** 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.

- 6.4** Transition

Clauses 4.1.1 and 4.1.2 do not apply in the case of an application made before January 1, 2020 as per subsection 26.2 (6) of the Act.

- 6.5** 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 the Municipality's policy.

- 6.6** Notice of Occupancy

- 6.6.1** The person responsible to pay development charges shall notify the Municipality in writing within five business days of the building first being occupied unless an occupancy permit has been issued by the Municipality for the purposes of section 26.1 of the Act.
- 6.6.2** Under subsection 26.1 (6) of the Act, failure to comply with the occupancy notice requirement under 6.6.1 will result in the development charge including any interest payable becoming payable immediately.

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

- 6.7.1** Interest will be charged on instalments at the rate found in section 6.12 from the date the development charge would have been payable in accordance with section 26 of the Act and the Municipality's Development Charges By-law.

6.8 Schedule of Instalment Payments

- 6.8.1** The Municipality will provide an Instalment Payment Schedule to the person required to pay development charges once notified of occupancy.

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.

6.9 Development Charge Grants

For developments that are in receipt of a Municipality of Chatham-Kent development charge grant or credit, the amount that shall be used for the purpose of determining instalment payments shall be the net amount of the Municipality development charges payable.

6.10 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 the Municipality development charges owing plus any accrued interest as per the instalment schedule is paid to the Municipality.

6.11 Unpaid Development Charges

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

6.11.2 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).

6.12 Interest Rate Used

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

6.12.2 Notwithstanding clause 6.12.1, 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.

6.13 Late Payment Penalty and Interest on unpaid Development Charge

6.13.1 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 Municipality administration fee as per the Municipality'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.

6.13.2 Interest on late payments added to the tax roll shall incur the applicable taxation interest rate as established by the Municipality of Chatham-Kent.

6.14 Policy Common Name

This Policy can also be referred to as: *Timing for Calculation of Development Charge, Instalment and Interest Policy*

7. Roles and Responsibilities

7.1 Municipality of Chatham-Kent Council

Approves, by resolution, the Timing for Calculation of Development Charge, Instalment and Interest Policy and any updates as necessary every five years or upon expiry of the Municipality of Chatham-Kent Development Charges By-law.

7.2 Treasurer

Reviews and updates Timing for Calculation of Development Charge, Instalment and Interest Policy as necessary every five years or upon the expiry of the Municipality's 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. Ensure interest rate is updated on website.

8. References and Related Documents

8.1 Legislation, By-Laws and/or Directives

8.1.1 Development Charge Act, 1997, S.O. 1997, as amended from time to time.

8.1.2 By-law No.149-2022 – A By-law to Establish Development Charges for the Municipality of Chatham-Kent, as amended from time to time.