Clarington

Staff Report

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Report To:	**General Government Committee**		
Date of Meeting:	November 30, 2020	**Report Number:**	FND-047-20
Submitted By:	Trevor Pinn, Director of Financial Services/Treasurer		
Reviewed By:	Andrew C. Allison, CAO	**Resolution#:**	
File Number:		**By-law Number:**	
Report Subject:	Interest Rates on Development Charge Deferrals		

Recommendations:

1. That Report FND-047-20 be received; and
2. That the Draft Policy attached to Report FND-047-20, as attachment 1, be approved.

Report Overview

Effective January 1, 2020, several key legislative changes occurred to the collection of development charges including mandatory deferral for certain development types and freezing of rates between site plan / zoning bylaw amendment and building permit dates. The Municipality is currently undergoing a review of the Development Charges By-law and these regulatory changes will be incorporated, however a policy is required to set the foundation for the way in which we want to handle deferrals as well as the freezing period.

1. Background

Bill 108 - More Choice More Homes Act and Bill 138 Plan to Build Ontario Together Act

1.1 Bill 108, *More Homes, More Choice Act, 2019* received Royal Assent on June 6, 2019. While it has received Royal Assent, the Act is not fully proclaimed and enacted. The Province of Ontario released two proposed regulations on June 21, 2019

December 2019 Regulations Coming into Force January 1, 2020

1.2 In late December 2019, certain sections of the *More Choice More Homes Act* (MCMH) and the *Plan to Build Ontario Together Act* (PBOT) were proclaimed and came into force on January 1, 2020 with no transition period.

1.3 Development Charges (DCs) for rental housing and institutional developments are to be paid in six equal installments over five years with non-profit housing developments to pay DCs in 21 installments over 20 years, both commencing the earlier of issuance of the occupancy permit or the date of occupancy. Prior to January 1, 2020 there were no mandatory deferrals for DCs.

1.4 Development charge rates for rental housing and institutional developments identified above will be frozen at the date of site plan or zoning by-law amendment application for those applications received on or after January 1, 2020. The rates will be frozen for two years after approval of the site plan or zoning by-law amendment application. Prior to January 1, 2020, the rates used were those in effect at the time of building permit issuance.

1.5 The freezing of DC provisions also applies to commercial, industrial and residential developments if they go through the site plan application or a zoning by-law amendment application process.

1.6 The exemption of secondary units has been broadened to apply to units that are detached from the existing unit but on the same property.

1.7 Regulation 454/19 provided definitions for the amendments to the *Development Charges Act* (DCA) as follows:

a. Rental housing development means development of a building or structure with four or more dwelling units, all of which are intended for use as rented residential premises

b. Institutional development includes long-term care and retirement homes, universities, colleges, hospices, and a memorial home, clubhouse, or athletic grounds by an Ontario branch of the Royal Canadian Legion

c. Non-profit housing development means development of a building or structure intended for use as a residential premise by:

- A non-profit housing co-operative in good standing under the *Co-operative Corporations Act*;
- A corporation without share capital to which the *Corporations Act* applies that is in good standing under the Act and whose primary object is to provide housing; and
- A corporation without share capital to which the *Canada Not-for-profit Corporations Act* applies, that is in good standing under that Act and whose primary object is to provide housing

1.8 Municipalities can charge interest to recover the costs associated with the development charge deferral and / or the freezing of development charges. The Province may prescribe a maximum interest rate; however, at this time there is no indication that the Province will be prescribing a maximum rate.

2. Financial Implications of Changes

2.1 The changes effective January 1, 2020 for deferral of development charges for certain types of development will result in the delay of collection of those development charges which could put pressure on the Municipality to fund growth related capital infrastructure. The timing of the receipt of development charges as a result of the deferral could be at least three studies later, which means that the projects that the funds were charged for could be completed prior to the final collection of the development charges paid. This could result in an increased reliance on debt financing, which increases the cost of development.

2.2 The delay in timing also represents an opportunity cost as the Municipality is not able to earn interest on those funds to offset the need for development charges in the future.

Interest earned on the DC Reserve Funds is deposited back into the fund to be used to fund growth related capital investment.

2.3 The freezing of development charges similarly impacts the Municipality's ability to fund growth related infrastructure as the charge is locked for two years. This could span studies which may result in the developer not paying for infrastructure that they otherwise would fund. At a minimum the annual indexation would be lost, which represents the time value of money.

3. Establishment of Development Charge Interest Policy

3.1 While the framework for interest rates and other changes to the Development Charges Act will be implemented through the new 2020 Development Charges Study and By-law, there is a need to establish a policy currently as the legislation is already in effect. This policy would form the basis for future Development Charges By-laws.

3.2 There are two times at which the Municipality may charge interest, the first being on the "freeze period" between the site plan or zoning by-law application date and the building permit issuance, the other date being the deferral period for qualifying developments.

Interest During the "Freeze Period"

3.3 With the new legislation, the developer can lock-in their DC rate at the time of site plan application or zoning by-law application for a period of two years. This provides an incentive for the developer to proceed through the development process without indefinitely locking-in the development charge rate.

3.4 The Municipality currently indexes development charges annually on January 15 by the Statistics Canada Quarterly, Construction Price Statistics (catalogue number 62-007) based on the November month end. It is suggested that the interest on the "freeze period" be equal to this indexation.

3.5 Charging interest at the same rate as the indexation ensures that the Municipality does not lose development charges during the freeze period; however it does protect the developer if there was a significant change in development charges resulting from a by-law amendment or a study update. Developers are no worse off by charging interest at this rate.

Interest During Deferral Period

3.6 The new legislation aims to incent certain types of institutional and residential development by allowing the development charges to be paid over a longer period of time allowing for better cash flowing of the development project

3.7 As money is collected based on a past value, the time value of money would result in the buying power of the deferred amount being lower. By charging interest, the Municipality is able to stay whole in its purchasing ability, although the cash flow may still require borrowing.

3.8 A theoretical argument could be made that the proper interest rate to charge would be the Municipality's borrowing rate, as the Municipality would have to borrow for any cash shortage caused by the deferral of development charges.

3.9 An alternate theory, Staff's proposed solution, is that the interest rate should be tied to the Municipality's investment rate as the Municipality's opportunity cost is the amount of interest that could otherwise be earned had we received the money. Funds can be borrowed internally to make up for any short-fall; however the DC Reserve Funds would be unable to earn interest on any deferred amount outstanding.

3.10 It is suggested that the interest rate charged on outstanding deferred development charges be set at the Municipality's bank interest rate + one percent as at January 1 every year. The additional one percent recognizes the spread that could be earned on long-term investments, recognizing that the Municipality invests in GICs, bonds and other eligible investments to earn revenue for the reserve fund.

Reduced Rate for Affordable Housing Projects

3.11 It is suggested, based on the existing policy direction of Council, that qualifying affordable housing projects receive an interest rate of 0% for the deferred development charges. This is consistent with treatment of Parkview, which is a qualifying affordable housing project through receiving funding from the Region of Durham. Affordable housing, for the purposes of the reduced interest rate, is defined to be those projects which are receiving funding from the Region of Durham for affordable housing (including Provincial and Federal programs administered by the Region).

3.12 As the legislation stands, there is no preference for affordable housing versus other "Non-profit Housing". Council's strategic priority specifically addresses affordable housing, therefore it is felt appropriate that qualifying affordable housing projects could qualify for the reduced interest rate. Further, by linking the lower rate with funding from the Region of Durham we would be assured that if the project no longer qualifies as affordable housing that we would be notified without having to commit municipal resources to administration.

Recommended Process

3.13 While the above highlights that there are alternative ways to justify the determination of interest, municipalities in Durham Region have adopted a different approach. The Town of Whitby has established an interest rate of five per cent with delegated authority to the Treasurer to adjust this rate as warranted. The City of Pickering has established a rate of bank prime + two percent, the Town of Ajax uses the Bank of Canada bank rate + two percent; however, it is revised twice per year at December 31 and June 30 of each year.

3.14 It is recommended that a specific interest rate is not desirable as interest rates will change each year and the interest charged does not relate to any index, it is arbitrary. The determination of interest rates twice per year allows the interest to remain current and reflective of prevailing economic conditions. The use of the Bank of Canada rate is an independent and easily verifiable rate which is publicly available.

3.15 The Municipality's policy utilizes the Bank of Canada's bank rate at June 30 and December 31 each year. This is consistent with the Town of Ajax, but also is consistent with other municipalities in that it is a variable rate tied to an economic index.

4. Concurrence

This report has been reviewed by the Municipal Solicitor and the Acting Director of Planning and Development Services who concur with the recommendations.

5. Conclusion

It is respectfully recommended that that attached draft policy for Development Charge Interest be adopted.

Staff Contact: Trevor Pinn, CPA, CA, Director of Financial Services / Treasurer, 905-623-3379 x.2602 or tpinn@clarington.net.

Attachments:

Attachment 1 – Draft Policy – Development Charge Interest Policy

Interested Parties:

There are no interested parties to be notified of Council's decision.