



Town of Whitby Policy

Policy Title:	Timing of Development Charge Calculation Policy
Policy Number:	F 420
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Approval:	Council
Point of Contact:	Financial Services Department

Policy Statement

A policy governing the calculation of development charges under the Development Charges Act, 1997.

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 Town of Whitby determines the total amount of a development charge.

Scope

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

Index

1. Definitions	3
2. Responsibilities	3
3. Legislative Framework	3
4. Application Made Dates	4
5. Incomplete or Unapproved Applications	4
6. Application Approval Dates	4
7. Application Appeal	5
8. Interest on the Development Charge	5
9. Final Determination of Total Payable Development Charges	5
10. Subsequent / Multiple Applications	5
11. Prescribed Time Limit	6
12. Transition	6
13. Related Policies	6

1. Definitions

- 1.1. **Act** means the Development Charges Act, 1997, as amended.
- 1.2. **Development Charges** means only the Town of Whitby development charges, and does not apply to Region of Durham development charges or school board development charges.
- 1.3. **Site Plan Application** is an application for an approval of a development in a site plan control area under subsection 41 (4) of the Planning Act
- 1.4. **Total Amount of a Development Charge** means the development charge rate and by-law (including rate classifications, definitions and statutory / non-statutory exemptions) in effect at the time the development charge is determined.
- 1.5. **Zoning By-Law Amendment Application** is an application for an amendment to a by-law passed under section 34 of the Planning Act.

2. Responsibilities

- 2.1. Commissioner of Financial Services / Treasurer

Administer this policy, including but not limited to:

- Assisting stakeholders in determining the total amount of the development charge that would be determined under the bylaw.
- Calculating and managing, the collection of all development charges.
- Working with Town departments to ensure the policy is administered correctly.

- 2.2. Commissioner of Planning and Development

Confirm that a complete application was made for the purposes of determining the total amount of the development charge and for recording and reporting the application submission date(s) and application approval date(s) made under subsection 41(4) and section 34 of the Planning Act.

3. Legislative Framework

- 3.1. Determining the total amount of a development charge under section 26.2 of the Act

Under subsection 26.2 (1), the total amount of development charge is determined under the by-law on:

- a. the day an application for an approval of a Site Plan Application was made in respect of the development that is the subject of the development charge;

- b. if clause (a) does not apply, the day a Zoning By-law Amendment Application was made in respect of the development that is the subject of the development charge; or
- c. if neither clause (a) nor clause (b) applies,
 - i. If section 26.1 of the Act applies to the development, the development charge would be payable in accordance with section 26 of the Act if section 26.1 did not apply.
 - ii. If section 26.1 of the Act does not apply to the development, the day the development charge is payable in accordance with section 26 of the Act.

3.2. 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.

4. Application Made Dates

- 4.1. For the purpose of this policy, the following establishes the application made date(s) included under section 26.2 of the Act:
 - 4.1.1. The date the application was stamped received by the Planning Department of the Town of Whitby shall apply to all Site Plan Applications.
 - 4.1.2. The date the application is deemed complete by the Planning Department of the Town of Whitby will apply to all Zoning By-law Amendment Applications.

5. Incomplete or Unapproved Applications

- 5.1. For all eligible development under section 26.2 of the Act, if a Site Plan Application or Zoning By-Law Amendment Application is deemed incomplete by the Town of Whitby, or if said application(s) are not approved by the Town of Whitby, the application submission date(s) does not apply to section 3.1 clause (a) or (b) of this policy.

6. Application Approval Dates

- 6.1. For the purpose of this policy:
 - 6.1.1. The Site Plan Application approval date shall be the date of notification provided under the authority of the delegation of approval by-law, or the by-law approval date resulting from Council approval of the application.
 - 6.1.2. The Zoning By-Law Amendment Application approval date shall be the by-law date resulting from Council approval.

7. Application Appeal

- 7.1. Should any Town of Whitby decision on the application(s) be appealed, the Town of Whitby decision will stand pending final resolution of the appeal.
- 7.1.1. Should a decision on an unapproved application be successfully appealed, the application made date will apply to section 3.1 clause (a) or (b) of this policy and the application approval date shall be the date the appeal is approved.
- 7.1.2. Should a decision on an approved application be upheld, the application made date will apply to section 3.1 clause (a) or (b) of this policy and the application approval date shall be the date the decision is upheld.
- 7.1.3. 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 section 3.1 clause (a) or (b) of this policy.

8. Interest on the Development Charge

- 8.1. Under the Town of Whitby's Development Charge Interest Policy and subsection 26.2 (3) of the Act, interest will be charged on the development charge, from the date of the application referred to in clause 3.1 (a) or (b) of this policy, to the date the development charge is payable.

9. Final Determination of Total Payable Development Charges

- 9.1. On the day the development charge(s) is payable, the final determination of the total payable development charge(s) shall be:
- The applicable total amount of a development charge established under clause 3.1 of this policy, for each type of development
 - Plus, any applicable interest;
 - Multiplied by, the developed quantity (number of residential units, number of square metres of non-residential development) for each type of development.
- 9.2. All development charges are payable prior to the issuance of a building permit, unless identified under section 26.1 or section 27 of the Act.
- 9.3. Early remittance of development charges is not permitted unless the municipality enters into an agreement under section 27 of the Act.

10. Subsequent / Multiple Applications

10.1. If a development was the subject of more than one Site Plan Application or Zoning By-Law Amendment Application, the later one is deemed to be the applicable application under subsection 26.1 (4) of the Act.

10.2. If a subsequent application(s) is made for a development

- The date the subsequent application is made will become the new date under which the total amount of the development charge is determined.
- All interest that had accrued prior to the subsequent application shall be deemed to be zero (0).
- Interest will be compounded annually and begin to accrue from the date the subsequent application is made.

11. Prescribed Time Limit

11.1. As defined in O.Reg 454-19 the prescribed time is two years.

Clause 3.1 (a) and (b) does not apply to:

- 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 the prescribed amount of time has elapsed since the application referred to in clause 3.1 (a) or (b) was approved; or.
- Any part of a development to which section 26.1 does not apply if, on the date the development charge is payable, more than the prescribed amount of time has elapsed since the application referred to in clause 3.1 (a) or (b) was approved.

12. Transition

12.1. Clauses 3.1 (a) and (b) do not apply in the case of an application made before January 1, 2020 as per subsection 26.1 (6) of the Act.

13. Related Policies

- Development Charge Interest Policy
- Development Charge Deferral Payments

This Policy is hereby approved by Council Resolution #109-20 on this 19th day of May, 2020.