

Development Charges Deferral for Open Air Motor Vehicle Storage Structures - REVISED

Approved By: Regional Council

Approved On: November 25, 2021

Policy Statement

A policy governing the deferral of Regional development charges and area-specific development charges for open air motor vehicle storage structures in York Region.

Application

This policy is available for open air motor vehicle storage structures in York Region, subject to the terms and conditions as set out in this policy and/or modified through the required deferral agreement.

For greater clarity, to be eligible, this structure must be open air and applies to:

- Conversions of existing surface parking to open air motor vehicle storage structures
- New open air motor vehicle storage structures

The policy does not apply to solely below grade motor vehicle storage structures. If an above-grade open air motor vehicle storage structure includes below grade storage areas, those below grade storage area will not be eligible for this deferral.

Purpose

The purpose of this policy is to establish the rules and practices for deferring development charges on open air motor vehicle storage structures.

This policy will also support the following outcomes:

- Support more compact development, thereby making better use of land
- Support the development and attraction of open air motor vehicle storage structures

Definitions

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

Development: The construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or changing the use from non-residential to residential or from residential to non-residential and includes redevelopment.

Development Charges: The Region's development charges, including any area-specific development charges.

Enclosure/enclosed: Includes the partial and/or complete enclosure of the part of the structure open to natural light and air.

Gross Floor Area: As defined under the Region's Development Charges Bylaw No. 2017-35 as amended by Regional Development Charges Bylaw No. 2018-42 or any successor development charges bylaw.

Motor vehicle storage: Includes, but is not limited to, the display, storage or warehousing of motor vehicles prior to sale, lease, rental, servicing and includes employee and/or customer parking.

Open air motor vehicle storage structure: Includes a building, structure, platform, station, or part of any of the foregoing, standalone or attached to another structure that is open to natural light and air and is used for motor vehicle storage.

Schedule 'I' Bank: As referenced in subsection 14(1)(a) of the *Bank Act*, S.C. 1991, c. 46. These are domestic banks and are authorized under the *Bank Act* to accept deposits, which may be eligible for deposit insurance provided by the Canadian Deposit Insurance Corporation.

Description

1. Development Charges Deferral Agreement

Upon site plan approval and prior to building permit issuance, any developer(s) wishing to defer development charges for an open air motor vehicle storage structure must enter into a development charge deferral agreement with the Region.

2. Covenants Included in the Development Charges Deferral Agreement

Every development charge deferral agreement will include covenants, on the part of the developer(s), of which will include, but not be limited to:

- Covenant, by the developer(s), that the structure will only be an open air motor vehicle storage structure as defined in this policy
- Covenant, by the developer(s), to permit Regional staff to visit and/or inspect the structure from time-to-time, in an agreed upon manner, to ensure the structure has not been enclosed and is being used for the intended purposes (i.e., motor vehicle storage)
- Covenant, by the developer(s) that they will inform the Region if the facility is to be enclosed
- Covenant, by the developer(s), that if the structure becomes enclosed, is subject to enclosure, or another trigger event occurs, as defined by this policy or accompanying agreement(s), development charges will be made payable (including any interest)
- Covenant, by the developer(s), that they will enter into any additional agreement(s), as determined to be required by the Regional Solicitor, to give full force and effect to the deferral agreement

3. Duration of the Deferral

The deferral of development charges for open air motor vehicle storage structures will be until the structure becomes enclosed, as defined in this policy and/or modified through the development charge deferral agreement.

The deferral period will begin on the day of building permit issuance by the local municipality for the open air motor vehicle storage structure.

Development charges will be payable within 15 business days immediately following notification of any of these trigger events:

- Enclosure of the structure (as defined in this policy)
- Sale, or transfer of ownership, of the property unless an assumption agreement is entered into
- Any other material default as defined in the agreement(s)

Notification to the owner of the property on the tax roll will occur immediately after the trigger event. The 15 business days will begin with the mailing, by registered mail, of notice.

4. Development Charges Rates

The development charges rate will be the amount determined under the applicable Regional development charges bylaw, or area-specific development charges bylaw on:

a. Day of building permit issuance for:

- i. Applications submitted for approval of a development in a site plan control area under subsection 41 (4) of the Planning Act for an open air motor vehicle storage structure prior to January 1, 2020, or
- ii. Applications submitted for an amendment to a bylaw passed under section 34 of the Planning Act prior to January 1, 2020

- OR -

b. Day of application for:

- i. Applications submitted for approval of a development in a site plan control area under subsection 41(4) of the Planning Act for an open air motor vehicle storage structure including and after January 1, 2020, or
- ii. Applications submitted for an amendment to a bylaw passed under section 34 of the Planning Act including and after January 1, 2020

For greater clarity, if clause b(i) or b(ii) does not apply to an open air motor vehicle storage structure that is seeking to defer development charges including and after January 1, 2020, the development charges rate is determined on the day the development charges is payable in accordance with section 26 of the Act.

5. Development Charges Payable

The amount of the development charges payable to the Region as required under the Act, will be based on the rates determined under Term '4' of this policy multiplied by the gross floor area of the open air motor vehicle storage structure, of which will

be determined on the day that the developer(s) enters into a development charges deferral agreement with the Region.

6. Interest Waiver

All interest will be calculated using the development charges payable in Term '5' to this policy. The period for the interest calculation will begin on the date of issuance of the building permit for the proposed structure by the local municipality and continue until the date upon which the development charges are fully paid.

All deferred development charges will bear interest at the prime commercial lending rate charged by an agreed upon 'Schedule I' commercial bank on demand loans in Canadian funds to its most creditworthy customers plus two per cent per annum. All interest will accrue and be compounded annually.

The Region will forgive all amounts due and owing on account of interest, provided that the development charges are paid in full to the Region at the time required (within 15 business days immediately following notification of a trigger event as defined in Term '3' of this policy).

In the event unpaid development charges are added to the tax roll (Term '7'), interest will continue to accrue and be compounded until all outstanding charges are fully paid.

7. Unpaid Development Charges

If any development charges (including any interest) are unpaid within 15 business days immediately following notification of a trigger event identified in Term '3' of this policy, those development charges (including interest) will be added to the tax roll and collected in the same manner as taxes (in accordance with section 32 of the Act).

In the event unpaid development charges are added to the tax roll; interest will continue to accrue and be compounded annually until all outstanding total charges are fully paid (development charges plus interest).

8. Redevelopment Credits

In the situation of a redevelopment of a structure covered by a deferral agreement under this policy, no development charge credits will be available and the new structure will be subject to the full development charges on that structure.

9. Local Participation

The Region will only enter into a development charges deferral agreement if the local municipality has provided a similar, if not better, deferral, exemption, or other incentive, for the proposed development.

It will be up to the Commissioner of Finance and/or the Chief Administrative Officer, in consultation with the Chief Planner, to decide what constitutes “similar, if not better”, but this may be determined by looking at:

- Whether there is a prescribed timeframe for the deferral
- Whether interest is waived
- Other incentives that may be provided, be them financial or otherwise

10. Security

A form of security will be taken and may be registered against the title to the land, at the execution of the development charges deferral agreement with the Region. The Region’s security interest will always be, at minimum, *pari passu*, or of equal footing, to that of the local municipality offering a similar, if not better, deferral of development charges.

11. Other Agreements Required

In addition to the requirement that the developer(s) enter into a development charge deferral agreement with the Region, the developer(s) will enter into any other agreements as required by the Regional Solicitor.

12. Legal Fees

All legal fees of the developer(s) and the Region will be borne by the developer(s).

13. Mixed-Use Buildings and Multiple-Use Buildings

This policy does apply to open air motor vehicle storage structure uses in a mixed-use building or a multiple-use building.

However, for greater clarity, this policy does not apply to the non-open air motor vehicle storage structure uses within a mixed-use building or a multiple-use building.

14. Report Back to Council

Staff will report back to Council on the number of deferral agreements, and the amounts deferred, executed through this policy, as part of the process to update of the Region’s development charge bylaw.

15. Effective Date

This policy will take effect the day it is passed by Regional Council and may be repealed by the Region at any time.

Responsibilities

Chief Administrative Officer, York Region

- Responsibilities as identified under the Terms of this policy
- Signing of security agreements

Commissioner of Finance and Regional Treasurer, Finance

- Responsibilities as identified under the Terms of this policy
- Signing of security agreements

Regional Solicitor, Legal and Court Services

- Draft and prepare for execution the deferral agreement between Region and the developer(s)
- Draft and prepare for execution any additional agreements required
- Maintain copies of all executed deferral agreements and other agreements as required
- Registration of security on title

Director, Treasury Office, Finance

- Administer and enforce the deferral policy, including assisting stakeholders in determining if they qualify for the policy, the development charges rates to be applied, and the development charges payable

Director, Strategy and Transformation, Finance

- Collect all development charges when due
- Notify, through the Regional Treasurer, to the treasurer of the local municipality if development charges are not paid/received within the prescribed timeframe and to have said charges added to the tax roll

- Undertake any additional administrative obligations as determined through the agreements
- Maintain copies of all executed deferral agreements and other agreements as required

Compliance

Immediately upon the occurrence of any of the trigger events identified in Term '3' of this policy, the **Director, Treasury Office** will notify the owner of the property on the tax roll that development charges are due within 15 business days, the timing of which will begin with the mailing, by registered mail, of notice.

The **Director, Treasury Office** will also monitor the payment of the development charges due to ensure interest is only forgiven (Term '6' of the policy) when the development charges are paid in full to the Region within 15 business days immediately following notification of a trigger event.

Reference

Legislative and other authorities

- [Development Charges Act, 1997, S.O. 1997, c. 27](#)
- [Ontario Regulation 82/98](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)

Appendices

- [The Regional Municipality of York - York Region Development Charges Bylaw - No. 2017-35](#)
- [Memorandum to Committee of the Whole, Development charge treatment of structured parking, April 12, 2018](#)
- [Council Report, 2018 Development Charge Background Study and Bylaw Amendment, May 17, 2018](#)
- [The Regional Municipality of York 2018 Development Charge Background Study – Bylaw Amendment, May 17, 2018](#)
- [Council Report, 2022 Development Charges Bylaw: Policy Directions, November 25, 2021](#)

Contact

- Director, Treasury Office, Finance, at extension 71644

Approval

Council Date: November 25, 2021	Committee Date: November 11, 2021
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Accessible formats or communication supports are available upon request.