



**COMMUNITY SERVICES – PLANNING**

**TOWN OF NEWMARKET**

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**Town of Newmarket Policy for Deferral of Payment  
of  
Development Charges and Planning Application Fees  
in the  
Yonge/Davis and Regional Healthcare Urban Centres**

**Effective Date: June 18, 2012**





# CORPORATE POLICY

Sub Topic: Town of Newmarket Policy for Deferral of Payment of Development Charges and Planning Fees	Policy No. Community Services and Corporate Services Joint Report – Planning and Building Services 2012-22
Topic: Tools for Intensification	Applies To: The Yonge/Davis and Regional Healthcare Urban Centres
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**1.0 Policy Statement & Strategic Plan Linkages**

*Redevelopment Ready:*

Tools intended to stimulate development help keep the Town redevelopment ready, which is one of the key departmental goals of the Planning and Building Services Department.

*Well-Equipped and Managed:*

Implementing policy and processes that reflect sound and accountable governance.

*Well-planned and connected:*

Long-term strategy matched with a short-term action plan.

**2.0 Purpose**

To establish a policy that aims to encourage development through the deferral of payment of Development Charges and *Planning Application Fees* within the Urban Centres. The policy is intended to stimulate *high-rise mixed-use* residential and *high-rise* office uses that implement the objectives and policies of the Official Plan, including but not limited to sustainability, energy, and waste management policies.

The policy applies to *high-rise mixed-use* residential and office development within the Urban Centres designation as identified on Schedule 1 attached.

**3.0 Definitions**

*Alternative Energy* - sources of energy or energy conversion processes that significantly reduce the amount of harmful emissions to the environment (air, earth and water) when compared to conventional energy systems and includes co-generation facilities.

*Building Permit* – means the building permit issued for the construction of the building including the below ground foundations and parking structures.

*High-rise* – means permitted development that is 5 storeys or higher and that conform to the intensification policies of the Official Plan.

*Mixed-use* – residential development that contains commercial uses on the main floor and residential uses above the ground floor and may include office uses above the ground floor on the 2<sup>nd</sup> and 3<sup>rd</sup> floors.

*Planning Application Fees* - fees required for an Official Plan Amendment, Zoning By-law Amendment, Plan of Subdivision, Plan of Condominium and Site Plan.

*Solar ready* – where buildings are designed to facilitate the installation of roof-mounted solar domestic hot water and/or photovoltaic systems with the following features:

- a roof location of suitable size, pitch and orientation;
- labelled conduits from the mechanical room to the proposed location for a solar system, e.g., roof, to accommodate additional electrical or hot water plumbing;
- extra plumbing valves and fittings on the hot water heater;
- an electrical outlet for the planned solar tank and wall space for PV controls; and,
- identify locations of future components on construction plans.

#### **4.0 Area of Application of the Policy**

The policy would apply to development within the Urban Centres along Yonge Street and Davis Drive, including the Regional Healthcare Centre and is intended to provide a short term catalyst for *mixed-use high-rise* residential development and *high-rise* office development that contribute to the implementation of the Official Plan. (See Schedule 1 – Map of Urban Centres)

#### **5.0 Background and Legislative Authority**

##### **5.1 Deferral of Payment of Development Charges**

Section 27(1) of the Development Charges Act provides for the legislative authority to provide municipalities with flexibility regarding when development charges may be paid as follows:

“ A municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable.”

Development charges are payable at the time of issuance of the *Building Permit* (Section 3.9 of the Town's Development Charges By-law).

In addition, the Town's Development Charges By-law (By-law 2009-73) provides, under Section 3.10 that: “despite Section 3.9, Council from time to time, may enter into agreements providing for all or any part of a Development Charge to be paid before or after it would otherwise be payable.”

##### **5.2 Deferral of Payment of Planning Application Fees**

Section 69(2) of the *Planning Act* provides municipalities with the flexibility to reduce or waive tariffs or fees associated with the processing of planning applications (e.g., zoning, site plan, and Committee of Adjustment fees) where the Council or applicable planning committee is satisfied that it would be unreasonable to require payment in accordance with the tariff.

## 6.0 Deferral Programs

Two programs are provided:

1. Deferral of Development Charges
2. Enhanced Development Criteria Based Approach to Deferral of Development Charges and *Planning Application Fees*.

### 6.1 Deferral of Development Charges

1. This program provides for the deferral of 100 % of the Town's Development Charges for both *high-rise mixed-use* residential and *high-rise* office development.
2. The deferral shall be dependent upon the developer providing a Letter of Credit to the Town at the time of the *Building Permit* issuance to secure payment of the Town's Development Charges.
3. The deferral is in effect for a period of 18 months from the earlier of the issuance of the *Building Permit* or registration of the condominium.
4. The Letter of Credit shall be drawn or the Development Charges shall be paid on or before the date that is equivalent to the earlier of the 18 months after the issuance of the *Building Permit* or registration of the condominium.

### 6.2 Enhanced Development Criteria Based Approach to Deferral of Development Charges and *Planning Application Fees*

1. This program provides for the deferral of 100 % of the Town's Development Charges and 50 % of the *Planning Application Fees* for both *high-rise mixed-use* residential and *high-rise* offices development that meet the Development Criteria of Section 6.2.1.
2. A **Letter of Credit** for the deferred Development Charges and the deferred portion of the *Planning Application Fees* will **not be required** to secure deferred charges or fees for development that meets the Development Criteria of Section 6.2.1.
3. The deferral of Development Charges and *Planning Application Fees* shall be in effect for a period of 18 months from the earlier of the issuance of the *Building Permit* or registration of the condominium.
4. All charges and fees shall be paid on or before the date that is equivalent to the earlier of 18 months after the issuance of the *Building Permit* or registration of the condominium.

#### 6.2.1 Development Criteria

In order to be eligible for deferral of payment of 100 % of Development Charges, 50 % of *Planning Application Fees* and the waiving of the Letter of Credit under the Enhanced Development Criteria approach, the following Development Criteria must be met.

- i) The proposed development complies with all applicable provisions of the Town's Official Plan, the Regional Plan and the Provincial Policy Statement, including but not limited to: Urban Design and Compatibility policies, sustainability and energy conservation policies, etc.



- ii) The mandatory and applicable optional provisions of the Site Plan Approval Process Manual and Development Standards Checklist (March 25, 2008, as amended) for the Yonge-Davis Provincial and Regional and Healthcare Centres.
- iii) For *mixed-use high-rise* residential development – it is demonstrated to the satisfaction of the Town that 35 % of the residential dwelling units are affordable to low and moderate income households or qualify as special needs housing. For ownership housing, the 2012 affordability benchmark purchase price is \$400,000 or less; for rental housing the monthly affordability benchmark cost is \$1,000 or less).<sup>1</sup>
- iv) The development is designed to include green or reflective roofing, unless the roof is used for photovoltaic or thermal solar installations.
- v) Where criterion iv) above is met, but does not include solar energy, the building shall be designed to be *solar ready*.
- vi) Demonstrate that renewable or *alternative energy*, provides for a minimum of 40 %<sup>2</sup> of the buildings energy requirements e.g., through solar hot water, photovoltaic, geothermal, passive solar gain, or purchase of off-site renewable energy, etc.
- vii) For mixed-use residential development, grey water recycling and/or rainwater harvesting shall provide for a minimum of 50 % of the projected demand for toilets/urinals.
- viii) All water fixtures and appliances shall be low demand or flow fixtures, dual or low flush toilets, or equivalent.
- ix) 80-100 % of the outdoor water irrigation needs are provided through combination of rainwater harvesting and through the use of drought tolerant landscaping.
- x) Three stream solid waste recycling is implemented.

## 7.0 Deferral Schedule

### 7.1 Development Charges Deferral Schedule

1. The Letter of Credit shall be drawn or the Town's portion of the Development Charges shall be paid on or before the earlier of 18 months after the date of the issuance of the *Building Permit* or registration of the condominium.
2. In the event that an appeal of a Planning Application is filed by the applicant at any time before or after the decision of Council and is subject to a final decision by the Ontario Municipal Board or by the Courts, such Planning Application(s) may not be eligible for the deferral of Development Charges as set out under Section 6.1 and 6.2. Eligibility for deferral of Development Charges shall be at the sole discretion of Council.

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<sup>1</sup> The affordable benchmark rental and purchase price will be subject to annual review in conjunction with the Region of York.

<sup>2</sup> 40 % reflects the Regional Plan target of 40 % more efficient for mid and high-rise residential development Policy 5.2. 22 b).

## 7.2 Planning Application Fees Deferral Schedule

1. For *Planning Application Fees*, 50 % of the *Planning Application Fees* shall be payable at the time of the planning application(s). The remaining 50 % shall be payable the earlier of 18 months after the issuance of the *Building Permit* or registration of the condominium unless:
  - the application does not meet the eligibility criteria and is refused by Council or it's designate;
  - the planning application is appealed by the applicant at any time before the final decision on the planning application(s); or
  - a *Building Permit* is **not** issued within 18 months of the final approval of the respective planning application(s).
2. Where a decision is made by Council or it's designate that the Development Criteria contained in Section 6.2.1 are not met or the planning application(s) is refused or appealed, the remaining 50 % of the application fees shall be paid to the Town within 7 days of the decision.
3. If the Development Criteria of Section 6.2.1 are not demonstrated to be met, or are no longer proposed to be met at the time of the Building Permit, the Deferral of Development Charges will be subject to the terms of Section 6.1, including the provision for a Letter of Credit.
4. In the event an appeal is filed by the applicant any time before the final decision on the planning application(s), the deferred *Planning Application Fees* shall be payable, with applicable interest, on the date of the appeal.
5. If a *Building Permit* or registration of the condominium is not obtained within the earlier of 18 months from the final approval of the respective planning application(s), the deferred portion (the remaining 50 %) of the *Planning Application Fees*, with applicable interest shall be paid to the Town 18 months following final approval of the respective planning application(s).
6. Where a *Building Permit* has been issued within 18 months of final approval of the planning application, the *Planning Application Fees* shall be deferred for a period not to exceed the earlier of 18 months following the date of the issuance of the Building Permit or registration of the condominium.

## 8.0 Procedures

### 8.1 Effective Date of the Policy

1. This policy comes into effect and will apply to all eligible applications from the date of the approval of this policy by Council (June 18,2012). The policy applies to all eligible applications that, prior to the date of approval of the policy, had not paid their *Planning Application Fees* or Development Charges.
2. The *Planning Application Fees* shall be the fees in effect at the time of the filing of the planning application(s).
3. The Development Charges shall be the charges in effect at the time of the issuance of the *Building Permit*.

## 8.2 Development Charges Prepayment Agreement

1. In the event that Development Charges are scheduled to increase, developers of *mixed-use* high-rise residential development may prepay their Development Charges at the prevailing rate, prior to the issuance of the *Building Permit on the basis of the following schedule*:
  - 25% of the Development Charges shall be paid prior to the issuance of the *Building Permit* and before the date of the scheduled rate increase;
  - the remaining 75 % shall be secured through a Letter of Credit and subject to a prepayment agreement to the satisfaction of the Director of Financial Services;
  - if the *Building Permit* is not issued within 18 months of the scheduled increase of the Development Charges, the developer will be subject to the prevailing rate on the effective payment date;
  - the prepayment agreement will be subject to a \$1,000 administration fee, plus applicable taxes.

## 8.3 Interest Rate

1. Subject to 8.2.2, Interest on the deferred fees will not accrue or be charged.
2. In the event that the deferred payments are not received in accordance with the Deferral Schedule set out in Section 7, interest will be charged on the basis of the interest rate applied to defaulted taxes in effect at the time of the failure to pay and applied from the time that the charges/fees were originally payable.

## 8.4 Security Obligations

1. Securities in the form of a Letter of Credit will be required for the deferral of the Town's Development Charges addressed under Section 6.1.
2. Securities in the form of a Letter of Credit will **not** be required for the Town's portion of the Development Charges or for the deferred *Planning Application Fees* in accordance with and subject to the provisions of Section 6.2.
3. The deferral of payment of Development Charges will be implemented in conjunction with the Regional Development Charges Deferral Policy for retail development, *high-rise* condominium development and *high-rise* office development.
4. This policy does not supersede or affect the Region's policy or ability to secure their portion of the Development Charges.
5. In the event of default of payment at the prescribed schedule time as set out in Section 7, the Town will secure its deferred fees, including the interest referred to in Section 8.2.2 through the applicable provisions of the Municipal Act.
6. Other securities required through the planning application process(s) shall not be released or reduced until the Town has received payment of all deferred charges and fees deferred through this policy.



## **8.5 Deferral Agreement**

1. A deferral agreement shall be required for the deferral of the Town's portions of the Development Charges and *Planning Application Fees* described under Sections 6.1 and 6.2 and may include the terms and conditions required by the Treasurer.
2. An application for Deferral of Development Charges shall be filed with the Treasurer the earlier of **60 days prior to** the filing of the Building Permit or registration of the condominium.
3. In the event that the deferral agreement is ready to be executed, or a *Building Permit* is ready for issuance for an applicant that qualifies for a deferral, but the deferral agreement is not executed and/or registered on land title, the applicant will be required to pay the Development Charges in full or secure the payment with a Letter(s) of Credit. Subsequent to the execution of the deferral agreement and its registration on title, the Town will refund the amount of the Development Charges deferred that were paid or release the Letter of Credit for the deferred amount to the applicant, without interest.

## **8.6 Deferral Agreement Fee**

1. The costs incurred by the Planning, Legal and Finance Departments for the administration, review, preparation and execution of the deferral agreements shall be subject to fee of \$3,000 plus applicable taxes, and payable at the time of execution of the deferral agreement.

## **8.7 Application Process for the Enhanced Development Criteria Based Approach**

1. The applicant shall provide notice of intention to file for Deferral of Payment of *Planning Application Fees* and Development Charges as part of the pre-consultation process.
2. A complete application for deferral shall be filed with the Treasurer and the Director of Planning and Building Services a minimum of 30 days following the final pre-consultation meeting.
3. A complete application package shall include the following:
  - demonstration and supporting documentation that the proposed development meets the Development Criteria, as applicable, set out in Section 6.2.1;
  - a plan showing the land area being developed (hectares/acres) confirmed by a survey or Certificate of a Surveyor;
  - the density, height and number and type of units (for residential) and the gross floor area (for non-residential) of the proposed building(s); and
  - the proposed use of the building(s).
4. Upon receipt of the planning application package and supporting documentation, a review will be conducted by the Director of Planning and Building Services (Director) to determine if the documentation required for the demonstration of satisfying the Development Criteria of Section 6.2.1 have been submitted for consideration through the planning process.

5. Where the application includes the documentation regarding the Development Criteria, the Director will proceed to process the application and a Deferral Agreement will be prepared for the deferral of the *Planning Application Fees*.
6. If the request does not include documentation demonstrating compliance with the Development Criteria, the Director will advise the applicant of the deficiencies.
7. In the processing of the planning application in the normal manner and where the Director determines that the application meets the Development Criteria set out in Section 6.2.1, the planning application will be forwarded to Council for final approval, refusal or approval with conditions.
8. Where Council or its delegate, approves the planning application, the deferral of the *Planning Application Fees* will remain deferred the earlier of 18 months after the *Building Permit* is issued or registration of the condominium.
9. In accordance with Section 7.2.1, the deferred *Planning Application Fees* shall be payable in advance of the 18 months after the *Building Permit* is issued where:
  - the application does not meet the eligibility requirements and is refused by Council or its designate;
  - the planning application is appealed by the applicant at any time prior to the final decision on the planning application(s); or
  - a *Building Permit* is **not** issued within 18 months of the final approval of the respective planning application(s).

## **8.8 Registration**

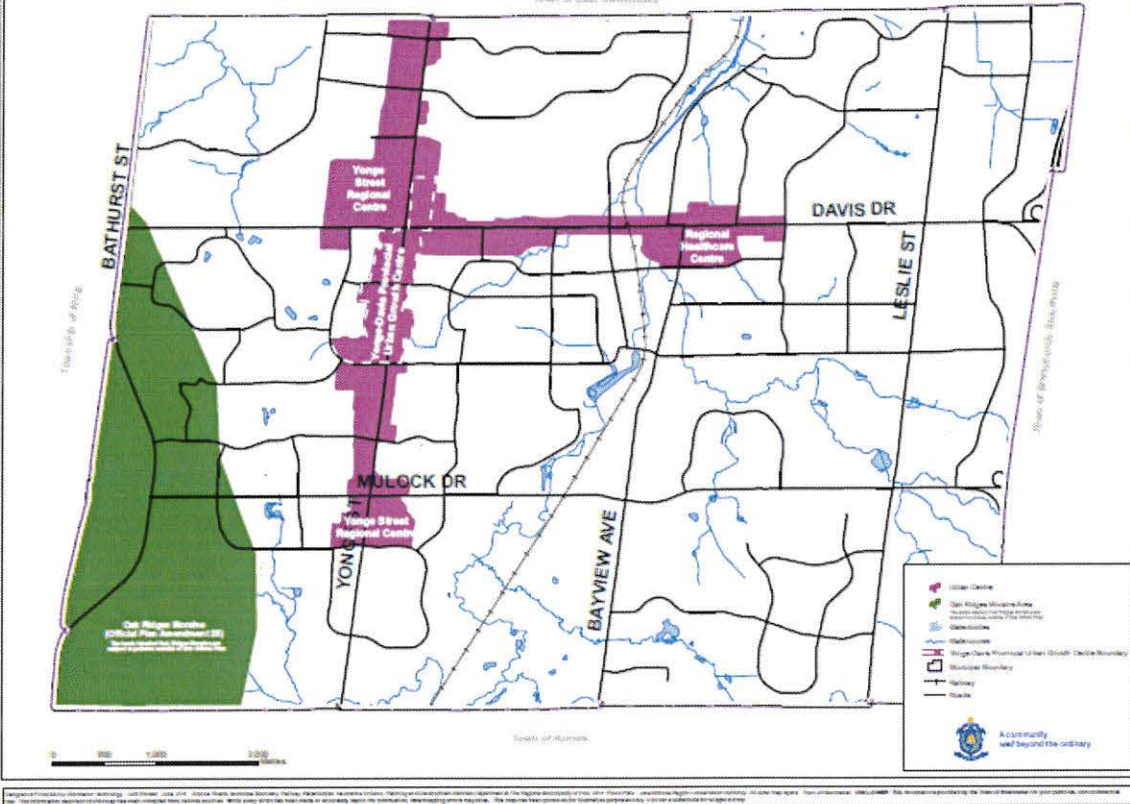
All agreements shall be registered on title to the property and enforced against subsequent landowners.

## **8.9 Review of the Policy**

This Deferral of Payment of *Planning Application Fees* and Development Charges Policy may be reviewed at Council's discretion. This Program will be subject to a six month and annual reviews and shall be in effect until December 1, 2014 or alternative period as may be directed by Council.

**Schedule 1**

**Town of Newmarket - Urban Centres**



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