

Clause No. 12 in Report No. 6 of Committee of the Whole was adopted by the Council of The Regional Municipality of York at its meeting held on November 21, 2013, with the following amendment:

Regional Council amended this clause as follows:

1. Council approve the revised Development Charge Credit Policy outlined in Attachment 1 of this report, as amended by the memorandum from the Commissioner of Finance, dated November 18, 2013.

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REVISED DEVELOPMENT CHARGE CREDIT POLICY

Committee of the Whole recommends adoption of the following recommendations contained in the report dated November 5, 2013, from the Commissioner of Finance:

1. RECOMMENDATIONS

It is recommended that:

1. Council approve the revised Development Charge Credit Policy outlined in *Attachment 1* of this report.
2. The Commissioner of Transportation and Community Planning and the Commissioner of Environmental Services be authorized to provide development charge credits in accordance with the Development Charge Credit Policy, subject to the approval of the Commissioner of Finance.
3. The Regional Clerk circulate a copy of this report to the local municipalities.

2. PURPOSE

This report describes proposed changes to the Development Charge (“DC”) Credit Policy initially adopted by Regional Council in 1996.

3. BACKGROUND

Development charge credits are provided to developers who pay to advance the timing of Regional capital projects

The Region undertakes long range Master Plan studies and ten year capital forecasts for its major capital infrastructure. These studies and forecasts identify the capital infrastructure required, when it is required, how much it costs, and how it is to be funded. There are instances where, in order to build out a development, a developer or group of developers need certain Regional infrastructure earlier than the Region had planned to construct it.

In 1996, Council approved the development charge credit policy currently in place

To address these circumstances, in May 1996, Council approved a policy where developers who paid to advance the timing of Regional infrastructure were provided a credit against their DCs, instead of having to pay DCs.

The 1997 YDSS Master Plan led to the first Development Charge Credit agreements for the construction of projects such as the Ninth Line and the Bathurst and Langstaff Trunk Sewers. Since 1997, the Region has entered into 17 DC credit agreements with an approximate value of \$380 million. An additional agreement for the Sharon Trunk Sewer is currently under negotiation, at an approximate value of \$15 million.

The current DC credit policy has not been updated since 1998 and needs to be reviewed

The DC credit agreements facilitated growth during a time when the Region had low annual debt obligations, a high growth rate and relative certainty with respect to DC revenues.

Over the past few years, the Region has accelerated its capital investment to meet growth demands and has incurred significant debt for these projects. The increased debt resulted in the Region moving close to its Annual Repayment Limit, a Provincial regulation that determines the amount of debt the Region can issue. In 2011, the Region received approval from the Province to include DC collections in its Annual Repayment Limit calculation, effectively increasing debt room.

On May 17, 2012, Regional Council adopted the 2012 Development Charge (DC) Bylaw with an enactment date of June 18, 2012. As part of the passing of the 2012 DC Bylaw, Council referred the Development Charge Credit Policy to staff for further review.

It is now appropriate to revise the Policy to ensure the Region is not exposed to debt or DC revenue risks that could result from entering into DC credit agreements.

Staff engaged BILD in the process of revising the Development Charge Credit Policy

The York Region Chapter of the Building Industry and Land Development Association (“BILD”) flagged issues with the proposed development charge credit policy in the Region’s 2012 Development Charge Background Study. Staff have engaged representatives of BILD throughout the DC Credit Policy review process. The process involved several meetings over a 12 month period to discuss proposed changes to the policy and their impact on the Region and development industry. BILD has indicated that it does not object to the revised policy.

The current Development Charge Credit Policy provides 100% recovery of growth-related costs by way of DC Credits

A developer wishing to advance the construction timing of capital works can do so, provided the works are included in the Region’s DC Bylaw. The developer is required to fund 100% of the cost prior to the construction of the works. The developer is eligible to recover costs based on the split between the growth and non-growth components of the works. The growth component of the costs is 100% recoverable by way of a development charge credit at building permit issuance or at subdivision registration.

Non-growth related costs are also subject to recovery although the amounts are discounted

The non-growth component is discounted to reflect the cost to the Region of funding the non-growth portion ahead of the planned capital expenditure. Currently, the discounted non-growth component is reimbursed by cheque upon completion of the works to the satisfaction of the Region.

Elements of intersection improvements are also subject to DC credits

In addition to the above, relatively smaller intersection or road-related works not specifically identified in the DC Bylaw are also considered for credits. The developer must submit an application to receive credits for the works prior to their construction. The works must be constructed in the ultimate location (i.e., the Region can use the works without reconstruction) and any portion of the works that are not salvageable for the Region’s next planned road upgrade are not eligible for recovery. On average the Region currently receives 8 intersection improvement requests per year, with an average value of \$300,000 per intersection and a total of \$2.4 million per year.

4. ANALYSIS AND OPTIONS

Changes to the DC Credit Policy are being proposed to protect the Region from risks

The intent of the revisions to the policy are:

1. To ensure that the development charges needed to support system-wide costs are protected, and
2. To protect the Region from potential financial risks associated with advancing infrastructure and providing development charge credits.

The key principles in the new policy are summarized below, and shown in detail in *Attachment 1*. Words in italics indicate a direct quote from the policy.

To be eligible for DC credit, the project must be in the DC Bylaw

Application for development charge credits will only be considered if the works are included in the Regional DC Bylaw. The eligible credit shall be limited to the value of the works in the DC Bylaw.

This ensures that the Region has planned to construct the works, and has forecast that sufficient DCs will be generated Region-wide to provide the DC credit without affecting other projects in the bylaw.

New financial criteria are being introduced

To be considered for advancement, generally the service-specific development charges, and in all cases the total development charges generated by the development associated with the capital works must be at least twice the value of the works for which the credit/reimbursement is being requested.

Development charge credits will not be offered unless the previous year's DC collections exceed the estimated current year DC-related debt servicing obligations (principal and interest) by at least the amount of the DC credit requested, both in total and for the specific service.

Advancement of the project cannot result in a negative impact to the Region's Annual Repayment Limit, as determined by the Commissioner of Finance.

Implementing these principles will help ensure that the Region is not deferring other infrastructure projects for financial reasons or issuing debt to pay DC credits. Requiring the development to generate at least twice as much DCs as the DC credit requested is intended to help ensure that DC funding is available for system-wide costs, which are

approximately half of the total costs. These policies also help to ensure the Region stays within its Annual Repayment Limit.

Eligible growth-related costs will be discounted and non-growth costs are ineligible

The developer will be required to fund 100% of the cost of the capital works, and recover eligible growth-related costs, discounted for financing costs based on the project's timing in the Capital Plan. Non-growth costs will not be eligible for recovery.

Development charge credits will be issued up to a maximum 50% of the service-specific DCs payable upon each subdivision registration or building permit issuance, as applicable, until the total eligible growth-related costs are recovered.

The costs associated with advancing the works are to be borne by the developer advancing the works. Advancing the works should have no impact on the Regional tax levy or user rates.

Reimbursement of intersection improvements will continue

The Region will pay for intersection and minor road improvements that are recommended in a development-related traffic study approved by the Region and are constructed in their ultimate location.

Reimbursement will be provided from the Roads DC reserve in the year the works are completed, provided sufficient funds are available in the Regional annual budget.

For roads (intersections and minor road improvements) reimbursement requests, the Commissioner of Transportation and Community Planning shall be authorized to approve the eligible cost of the works.

The Commissioner of Finance would approve reimbursements for intersection improvements.

The intent of the changes in the DC credit policy for small intersection improvements is to reduce the administrative burden associated with these relatively smaller projects and to provide reimbursement to the developers more quickly. It is also proposed that staff implement additional improvements to make the process more efficient, such as enabling on-line processing of applications and providing a preliminary assessment of reimbursement eligibility at the draft plan approval stage.

Existing intersection improvements requests will still be subject to the existing DC Credit Policy

As part of the DC Credit Policy review, developers requested that approval of intersection DC credit requests be deferred until a revised policy was approved. It is estimated that 11 intersection requests have been deferred pending the approval of the DC Credit Policy. Once the revised policy is approved, staff propose that the DC Credit requests for intersection works made prior to the approval of this policy be dealt with using the previous DC Credit Policy, as a transition measure. Any requests received after approval will be subject to the revised DC Credit Policy.

Link to key Council-approved plans

Collection of development charges is an indicator of success for York Region's 2011 to 2015 Strategic Plan objective to practice sound fiscal management.

5. FINANCIAL IMPLICATIONS

Development charges are the primary source of funding for growth-related capital costs

Development charges are collected to recover a significant portion of growth-related capital costs. The 2012 Development Charges Bylaw rates are based on population and employment forecasts and related capital infrastructure costs to 2031.

Annual DC collections over the next twenty years are currently forecast to be in the \$330 - \$500 million range.

If costs are not recovered through development charges, tax levy or user rate increases would be needed, or the capital program would need to be delayed.

6. LOCAL MUNICIPAL IMPACT

Development charges provide a major source of financing for Regional capital works that facilitate development in local municipalities.

7. CONCLUSION

It is recommended that Council adopt the attached DC Credit Policy. The development charge credit policies have been revised to be in line with the Region's financial planning objectives. If approved by Council, staff will develop administrative guidelines to implement this policy.

For more information on this report, please contact Warren Marshall, Director, Controllership Office, at Ext. 1601.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)



STATUS: Final/Draft/Archived (Select one)

Council Approved: Y N

CAO Approved: Y N

<p>TITLE: Development Charge Credit Policy</p>	<p>Edocs No.: (of this policy)</p> <p>Original Approval Date: (from Council authority)</p> <p>Policy Last Updated: (date subsequent to original approval – may be Council or CAO approval)</p> <p>Posted on Intranet: (date)</p>
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POLICY STATEMENT:

A developer or developer groups that need certain Regional infrastructure to build out a development earlier than the Region had planned to construct it may pay to advance the timing of the construction of the infrastructure in the Region's capital program. These developers will be entitled to receive a credit against the Regional development charges payable on their developments.

APPLICATION:

This policy applies to developers or developer groups developing in York Region who need certain Regional infrastructure earlier than the Region had planned to construct the works.

PURPOSE:

This policy provides a framework for developers to accelerate the construction of infrastructure in the Region's capital program, while protecting the Region from potential financial risks associated with advancing infrastructure and providing development charge credits.

DEFINITIONS:

Annual Repayment Limit: A calculation provided annually to a municipality by the Ministry of Municipal Affairs and Housing that determines the maximum amount of new annual debt servicing costs that a municipality can undertake or guarantee without seeking the approval of the Ontario Municipal Board.

Developer: A person, corporation, group of persons and/or corporations, or agent for a person, corporation or group of persons and/or corporations that have submitted a development application to the Region for review.

Development Charges: A charge imposed pursuant to the Region’s Development Charges Bylaw.

Development Charges Bylaw: Bylaw No. 2012-36 approved by Regional Council on Thursday May 17, 2012 under the Development Charges Act, 1997 and as may be amended from time to time, or any successor bylaw.

Development Charge Credit(s): A credit, approved by the Region for work performed by a Developer that relates to a service for which a credit is provided within the Development Charges Bylaw.

Growth-related costs: The capital costs to be recovered under the Development Charges Bylaw based on the Region’s capital spending plans identified in the Background Study to the Development Charges Bylaw.

Non-growth costs: The capital costs that are not related to new development and cannot be recovered under the Development Charges Bylaw and are funded by tax levy, user rates or other non-development charge sources.

Throw-away costs: The portion of the works that are temporary or are deemed not to be usable by the Region.

Ultimate location: The portion of the works that are permanent and do not require any modification or enhancement to meet Regional standards and are usable by the Region.

DESCRIPTION:

Developers who pay to advance the timing of Regional infrastructure may be provided a Development Charge Credit against the Development Charges payable at building permit issuance or plan of subdivision registration.

The Region has established a framework for a Developer to advance the construction timing of Regional infrastructure in the Region’s capital program and receive credits for the amount paid to advance the works.

A. Requirements for all Development Charge Credit applications

1. Development charge credits shall be provided in accordance with the policy for all works except for works eligible for reimbursement under Part C.
2. A developer seeking a development charge credit/reimbursement must submit a request to the Region and receive approval before construction of the works.

3. Credits are subject to Regional approval and there is no entitlement to credit prior to approval.
4. The Region is under no obligation to approve a request or advance capital projects through this policy as a result of a request.
5. Development Charge Credit requests for works less than \$5 million may be approved by the Commissioners of Finance and either Environmental Services or Transportation and Community Planning. Development Charge Credit requests that have a value that is greater than or equal to \$5 million require Council approval. This limit applies to the total of the works being advanced (i.e., sewer works that require the advancement of road works).
6. Application for development charge credits will only be considered if the works are included in the Regional Development Charge Bylaw. The eligible credit shall be limited to the value of the works in the DC Bylaw. If the value of the works is adjusted as part of a future DC Bylaw update, the amount for any unused credits will be revised.
7. Advancement of the project cannot result in a negative impact to the Region's Annual Repayment Limit, as determined by the Commissioner of Finance.
8. Development charge credits will not be offered unless the previous year's DC collections exceed the estimated current year DC-related debt servicing obligations (principal and interest) by at least the amount of the DC credit requested, both in total and for the specific service.
9. If development charge credits are deferred for financial reasons, the credits will be paid on the anniversary the credit would have been earned, provided the thresholds noted above in Sections 7 and 8 have been met. If Sections 7 and 8 have not been met, the credits would continue to be deferred until they have been met, and they would then be paid on the applicable anniversary of the credit being earned.
10. To be considered for advancement, generally, subject to Part A sections 3 to 5, the service-specific development charges, and in all cases the total development charges generated by the development associated with the capital works, must be twice the value of the works for which the credit /reimbursement is being requested.

B. Advancement of Regional Works

Subject to meeting the requirements outlined in Part A:

1. The developer will be required to fund 100% of the cost of the capital works, and recover eligible growth-related costs discounted for financing costs based on the project's timing in the Capital Plan. Non-growth costs will not be eligible for recovery.

2. Any related capital works that are required to be simultaneously advanced with the works for which a credit is being requested must be included in the DC credit request.
3. The credit will be restricted to the service component of the Regional development charge the developer is required to pay at the registration/subdivision agreement or building permit stage (e.g., road credits restricted to the road development charge).
4. Development charge credits will be issued up to a maximum of 50% of the service- specific DCs payable upon each subdivision registration or building permit issuance, as applicable, until the total eligible growth-related costs are recovered.
5. In the event that there is a remaining balance of development charge credits, the Regional will reimburse the remaining balance on the anniversary of the registration of the last unit.

C. Reimbursement of Development Charges for Intersections and Minor Road Improvements

Subject to meeting the requirements in Part A:

1. The Region will pay for intersection and minor road improvements that are recommended in a development-related traffic study approved by the Region and are constructed in their ultimate location. The works must be designed in accordance with the approved traffic study recommendations and to Regional standards.
2. Throw-away costs or works that are not deemed to be at the ultimate location by the Commissioner of Transportation and Community Planning at the time of the next programmed road upgrade or reconstruction will not be eligible for reimbursement.
3. Intersection and minor road work reimbursement is only for works that serve a regional or community-wide purpose, either along Regional roads or at intersections with arterial roads, collector roads, or local roads deemed significant, as determined by the Region.
Development Charge reimbursement will be provided for the following:
 - a. Improvements in the Regional right-of-way at existing public intersections, including the installation of warranted traffic signals or auxiliary turn lanes
 - b. Construction of new public intersections, including the installation of warranted signals or accommodation for future traffic signals
 - c. Widening of existing Regional roads or construction of new Regional road sections when related to intersection improvements
 - d. Utility relocations (Regional share of the cost)

- e. Boulevard urbanization that is reflected in the DC Bylaw
 - f. Any other related works determined by the Region to be eligible for reimbursement.
4. Works not eligible for reimbursement include:
- a. Land purchases
 - b. Voluntary and/or statutory land dedications to the Region
 - c. General project management, coordination or administration
 - d. Construction contingency allowances
 - e. Road improvements required for the exclusive use of a private entrance or development, including new signals or signal alterations, turning lanes, etc.
 - f. Intersections that service a site-specific or local function (such as minor local or cul-de-sacs).
5. At the Draft Plan of Subdivision approval stage, the Region can provide the developer with a preliminary assessment of whether the works will be eligible for reimbursement.
6. As part of the engineering approval process, the developer must submit an application for cost recovery, which includes a list of detailed items that are to be considered for recovery in a tender format satisfactory to the Region.
7. The Region will determine the cost of the works eligible for DC Credit or any other applicable reimbursement.
8. The developer is entitled to recover the eligible growth-related cost of the works based on the standard Regional unit rates in the year the works are approved. Non-growth costs will not be eligible for recovery.
9. Reimbursement will be provided from the Roads DC reserve in the year the works are completed, provided sufficient funds are available in the Regional annual budget to provide the reimbursement.
10. In the event that the Region cannot provide all the requested reimbursements for a given year, priority will be determined using the approval date of the reimbursement request.
11. If funds are not available, reimbursement will be provided the following year, contingent upon funding being available in that year's Regional annual budget.

12. The final amount of the reimbursement may be subject to review and revision by the Region based upon a final inspection to ensure that all eligible works were constructed to the Region's standard and in accordance with approved drawings.
13. The developer shall secure the total costs of the works by a Letter of Credit or Certified Cheque (both eligible and non-eligible components) in accordance with standard Regional practices and in a format satisfactory to the Regional Treasurer.
14. After satisfactory construction of the works, a 10% holdback will be retained by York Region for a two year maintenance/warranty period and the balance of the Letter of Credit will be released.

D. Administration of Development Charge Credit Applications

1. All approved Development Charges Credit applications shall be subject to a Development Charge Credit Agreement, with the exception of approved applications for the reimbursement of Development Charges for Intersections and Minor Road Improvements.
2. A trustee representing the interests of the developers is required where there are more than five developers in a group requesting a DC Credit through this policy.
3. For roads (intersections and minor road improvements) reimbursement requests, the Commissioner of Transportation and Community Planning shall be authorized to approve the eligible cost of the works.
4. For capital projects identified in the DC bylaw, the Commissioner of Transportation and Community Planning or the Commissioner of Environmental Services, or applicable, shall be authorized to approve the eligible costs of the works.
5. The Commissioner of Finance shall be authorized to approve and provide development charge credits and/or reimbursements for advanced regional infrastructure.
6. For development charge credit agreements and for intersections and minor road improvement reimbursement requests, a cost recovery, to be determined by the Commissioner of Finance of up to 1.0% (minimum \$1,000) of the value of the works will be charged for costs related to the administration of the development charge credits and reimbursement.
7. In instances where Regional costs to prepare and administer a prepaid development charge credit agreement are beyond the above noted cost recovery provisions, the costs shall be separately quantified and invoiced to the developer.

8. The developer will be required to pay the Region's legal fees for the preparation of the credit requests.
9. Any development charge credit request that is not consistent with this policy will require Regional Council approval.

RESPONSIBILITIES:

Commissioner of Finance and Regional Treasurer and/or designate:

- Approves Development Charge Credit requests for works less than \$5 million
- Approves and provides development charge credits and/or reimbursements for advanced regional infrastructure
- Determines whether requests received by the Region meet the financial criteria under Part A, Sections 6 to 10
- Maintains administrative authority and responsibility for the Development Charges Credit Policy, and
- Approves departmental operating procedures and process under this policy.

Commissioner of Environmental Services and/or designate:

- Approves Development Charge Credit requests for works less than \$5 million, and
- Approves total eligible costs for the works.

Commissioner of Transportation and Community Planning and/or designate:

- Approves Development Charge Credit and/or reimbursement requests for works less than \$5 million, and
- Approves total eligible costs for the works.

Regional Solicitor and/or designate:

- Prepares Development Charge Credit Agreements in accordance with approved principles.

All staff involved in the evaluation and administration of Development Charge Credits:

- Evaluate Development Charge Credit requests and recommend approval/non-approval to the Commissioner of Finance and the Commissioners of Environmental Services or Transportation and Community Planning, as applicable
- Abide by the requirements set out in this Policy, and
- Forward any Development Charge Credit request received to the Director, Controllership Office, and/or designate.

NON-COMPLIANCE WITH POLICY:

Non-compliance with this Policy will result in the Region not entering into an arrangement under this policy, or disallowing any Development Charge Credit or reimbursement.

Revises Development Charge Credit Policies approved by Regional Council on May 9, 1996 and May 23, 1996, as well as the revisions adopted by Regional Council June 25, 1998.

Development Charges Act, 1997, S.O. 1997, c. 27

Regional Development Charges By-law

Ontario Regulation 403/02 – Debt and Financial Obligation Limits, Section 4.1

CONTACT:

Director, Controllership Office, Finance Department.

<u>APPROVAL INFORMATION</u> <i>[complete the details from the approved policy report]</i>		
CAO Approval Date: _____ <i>(insert 'n/a' if policy is Council approved)</i> <i>(if the policy is subsequently revised or updated and requires CAO approval only - insert new date of CAO approval here)</i> <i>(remove the Committee/Council approval section below for policies approved by CAO only)</i>		
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