

CITY WIDE DEVELOPMENT CHARGES DEFERRAL POLICY

Recommendation

The Commissioner of Finance & Corporate Services, the Commissioner of Legal and Administrative Services, the Director of Reserves & Investments and the Director of Legal Services recommends:

- 1) That the City of Vaughan City-Wide Development Charges Deferral Policy (Attachment 1) be approved;
- 2) That the Region of York be advised of the policy and their participation be encouraged; and
- 3) That a bylaw be enacted to authorize the Mayor and City Clerk to execute the standard from Development Charge Deferral Agreements required by the City.

Economic Impact

There is no financial impact to the operating budget. The collection of City of Vaughan development charges will be deferred to a date when the proposed land use changes at which time the deferred development charge becomes applicable and must be paid. The impact that the deferred timing of collection will have on the funding and timing of development charges capital projects is uncertain as the number of qualifying applicants is not known.

Purpose

The purpose of this report is to obtain Council approval on a proposed City of Vaughan City-Wide Development Charges Deferral Policy.

Background - Analysis and Options

The City of Vaughan City-Wide Development Charges By-law No. 350-2003 does not provide for an exemption of development charges for non-profit organizations on the premise that all forms of growth increase the demand on services.

Council has in the past, deferred City of Vaughan Development Charges (DC's) for some non-profit organizations:

- a) City owned/leased lands on the basis that they reduce demand for municipal services and if the City of Vaughan provided a similar public recreational service directly DC's would not apply;
- b) non-profit private/parochial school registered with the Ministry of Education; and
- c) non-profit long-term care facilities registered with the Ministry of Health and Long Term Care.

These types of deferral requests were addressed by Council on an as requested basis. The City continues to receive requests for development charges deferrals. To provide for consistent treatment of all requests and provide clear direction as to when Council is prepared to grant a deferral, staff recommend Council approve a deferral policy.

Currently, there are no provisions for an exemption from development charges for non-profit organizations in the City of Vaughan City-Wide Development Charges By-Law. If Council wishes to assist defined organizations with relief from City of Vaughan City-Wide Development Charges, the municipality does have the authority under Section 27 of the Development Charges Act to defer development charges payable to a date later than building permit issuance. Staff

recommends deferring development charges rather than including an exemption in the Development Charges By-law. A policy approach provides more flexibility to Council in terms of establishing and subsequently amending the policy. The deferral is registered by way of an agreement on title of the lands. The City of Vaughan is then protected in the event there is a change in use of the lands. Once a change in land use occurs that is not covered by the deferral policy, the development charges that were originally deferred become applicable and must be paid. The act and the agreement provide that if the charge is not paid when due, it may be added to the tax roll.

Although the City of Vaughan does not generally provide for exemptions in the Development Charges By-law, it does provide exemptions relating to land and structures owned by and used for the purposes of the two Region of York School Boards and the Regional Municipality of York as follows:

Section 3 of the Development Charges Act

- "no land, except land owned by and used for the purposes of a municipality or board as defined in subsection 1(1) of the Education Act is exempt from a development charge by reason only that it is exempt from taxation under section 3 of the Assessment Act"

City of Vaughan By-Law 350-2003 (Section 2 (2))

- "this by-law does not apply to any land, building or structure within the City owned by and used for the purpose of the Regional Municipality of York or any local board thereof"

Policy Approach

The premise on which the attached deferral policy was developed is that City-Wide DC's would be deferred if the land and structure to which development charges apply are to be used to provide services to the general public on a not-for-profit basis and are services that the City or the Region of York or the School Boards would normally provide. When services are provided by these other organizations the pressure on the above organizations to provide services is reduced.

In the case of the City of Vaughan and the Region of York, confirmation regarding the services provided would come from the respective municipal organization. With respect to education, the educational institution must be registered with the Ministry of Education.

The deferral of City of Vaughan development charges only relates to City-Wide Development Charges and not to Special Area Development Charges. Special Area development charges generally relate to the recovery of the developers costs of front-ending water and sewer servicing. A Special Area Charge is also used to collect funds for the preservation of designated woodlots.

All City of Vaughan development charges that have been approved by Council will be grandfathered and will be subject to the terms and conditions under which they were approved.

Region of York Participation

There have been informal discussions with Regional staff with respect to the operation of the policy. A formal position could be taken by the Region after the City has finalized its policy. York Region participation is required if City development charges are to be deferred for any qualifying project that provides a service the Region would otherwise provide.

Relationship to Vaughan Vision 2007

This report is consistent with the priorities previously set by Council and the necessary resources have been allocated and approved.

Conclusion

To provide for a deferral of City-Wide Development Charges to non-profit organizations that provide services that would otherwise be provided by the City of Vaughan, the Regional Municipality of York or the two Regional School Boards, staff recommend approval of the attached City of Vaughan City-Wide Development Charges Deferral Policy.

Attachments

Attachment 1 – City-Wide Development Charges Deferral Policy

Report prepared by:

Clayton Harris, CA
Commissioner of Finance & Corporate Services, ext. 8475

Ferrucio Castellarin, CGA
Director of Reserves & Investments, ext. 8271

Respectfully submitted,

Clayton D. Harris, CA
Commissioner of Finance & Corporate Services

Robert Swayze
Commissioner of Legal and Administrative Services

Ferrucio Castellarin, CGA
Director of Reserves & Investments

Heather Wilson
Director of Legal Services

CITY OF VAUGHAN
City-Wide Development Charges Deferral Policy

Purpose

A policy setting out the qualifying criteria enabling all qualifying applicants to receive a deferral of the City of Vaughan City-Wide Development Charges.

Definitions:

Non-profit Organization - any organization that is a registered charity pursuant to Section 248 of the Income Tax Act.

Private/Parochial School – as defined by the Education Act - an educational institution operated on a non-profit basis excluding any dormitory or residence accessory to such private/parochial school that is used primarily for the instruction of students in course of study approved or authorized and registered by the Ministry of Education.

Qualifying Criteria to Determine Eligibility for a Deferral of City of Vaughan City-Wide Development Charges

- 1. Deferrals for Private / Parochial Schools must meet all of the following criteria:**
 - i) A non-profit organization; and
 - ii) Lands are owned by the non-profit organizations or are leased lands where the land owner has consented to register the deferral agreement on title and agrees to pay the deferred amount, if required;
 - iii) That all other consents that are determined necessary by the City are obtained;
 - iv) Registered, in good standing, as a charity with the Canada Customs and Revenue Agency; and
 - v) Registered, in good standing, as an educational institution with the Ministry of Education.

- 2. Deferrals for Services/Uses Provided by the City of Vaughan or the Regional Municipality of York or any local Board thereof must meet all of the following criteria:**
 - i) A non-profit organization; and,
 - ii) Services/uses that would otherwise be provided by the City of Vaughan (other than seniors housing) or the Regional Municipality of York or any local board thereof; and,
 - iii) Lands are owned by the non-profit organizations or are leased lands where the land owner has consented to register the deferral agreement on title and agrees to pay the deferred amount, if required;

- iv) That all other consents that are determined necessary by the City are obtained;
- v) Registered, in good standing, as a charity with the Canada Customs and Revenue Agency;
- vi) Registered in good standing, where required, with appropriate Province of Ontario Ministries; and
- vii) The service is available to the general public.

3. Ending Deferral

- i) The deferral of the development charges will end when the use no longer meets the criteria outlined in this policy;
- ii) The rate to be paid is the rate in effect at the time of the deferral.

4. Previous Deferrals

- i) Deferrals previously granted will be grandfathered under the terms and conditions the deferral was originally granted.

CITY OF VAUGHAN

Process for the Administration of Deferral Agreements

- 1) Applicant to provide a written request to the Commissioner of Finance & Corporate Services, prior to the issuance of a building permit, for the partial or full deferral of City of Vaughan City-Wide Development Charges.
- 2) The Director of Reserves & Investments will require the following information in order to process the request.
 - i) why the deferral is requested,
 - ii) a footprint of building,
 - iii) proposed building uses,
 - iv) proof of registration with Canada Customs and Revenue Agency; and
 - v) proof, where applicable, of registration with appropriate Province of Ontario Ministry.
- 3) Where a facility has shared uses (more than one use), the common areas within the facility will be prorated among the proposed user. The total identified gross floor area attributed to a use that is for services/uses provided by the City of Vaughan or the Regional Municipality of York, the two Regional School Boards or any local board therefore will be considered for deferral of City of Vaughan development charges.

- 4) The Director of Reserves & Investments will determine the nature of deferral request and forward the request to the appropriate Commissioner of the City of Vaughan or Regional Municipality of York who determine if the uses provided by the applicant are uses provided by either the City of Vaughan or the Regional Municipality of York.
- 5) Upon review, the respective Commissioner of the City of Vaughan or Regional Municipality of York will provide confirmation in writing whether or not the proposed uses to be provided by the applicant are services provided by either the City of Vaughan or the Regional Municipality of York.
- 6)
 - a) If the proposed uses are deemed to be services/uses provided by the City of Vaughan (other than seniors housing), Regional Municipality of York and are eligible for the City-Wide Development Charges deferral, Reserves & Investment staff will determine the deferral amount. The Legal Department will prepare a standard deferral agreement, obtain the necessary consents and register of the deferral agreement on land title.
 - b) For the Private/Parochial School deferral requests, Reserves & Investment staff will confirm that all the criteria for deferral are met. Reserves & Investment staff will determine the deferral amount. The Legal Department will prepare a standard deferral agreement, obtain the necessary consents and register of the deferral agreement on land title.
- 7) Deferrals must be authorized by the Commissioner of Finance & Corporate Services.
- 8) Commissioner of Finance & Corporate Services will advise the Clerks department if the deferral agreement can be executed.
- 9) In the event that a building permit is ready to be issued for an applicant that qualifies for a deferral and the deferral agreement is not signed and/or registered on land title, the applicant is required to pay the development charges amount in full. Once the deferral agreement is signed and registered on land title, the City will refund the agreed to deferred amount to the applicant.
- 10) In the event the applicant is not satisfied with the result of their deferral request, the applicant may appear before Council and appeal staff's decision. Council will give the applicant an opportunity to make representation why the deferral request should be considered. At such time, Council may either dismiss or confirm the deferral request. Council's decision is final and binding.
- 11) Each applicant, that qualified for a deferral, must annually no later than September 30 of each year after the signing of the deferral agreement provide the City of Vaughan – Reserves and Investments Department evidentiary proof that the non-profit organization remains in good standing with the Canada Revenue Customs and Revenue Agency and with the respective Province of Ontario Ministries. Reserves & Investment staff will verify the information provided and request that the appropriate staff that performed the initial review of the deferral request perform a site visit to verify that the land use has not changed. If a change in use occurs that is not covered by the deferral policy, the development charges registered on land title that were deferred become applicable and must be paid in full.