



**City of Kingston
Report to Council
Report Number 19-069**

To:	Mayor and Members of Council
From:	Lanie Hurdle, Acting Chief Administrative Officer
Resource Staff:	Desirée Kennedy, Chief Financial Officer & City Treasurer
Date of Meeting:	February 19, 2019
Subject:	Development Charge and Impost Fee Deferral Agreements

Executive Summary:

The City of Kingston collects development charges under By-Law Number 2014-135 and impost fees under By-Law Number 2009-138 as amended, for the purposes of financing the infrastructure required for future development in the municipality. Currently, the City's by-laws exempt industrial developments from development charges and impost fees in order to encourage industrial and employment growth.

In order to be eligible for an exemption, the developer must file an application certifying that its proposed use will qualify for the exemption upon issuance of the occupancy permit. Exemptions are recorded when building permits are issued and are compensated from a tax incremental financing approach by withholding taxation revenue from the related assessment increases to compensate Development Charge and Impost Fee Reserve Funds.

There have been situations where industrial property owners clearly build for industrial use and are eligible for an exemption at the time of the building permit issuance; however, prior to occupancy, the proposed use of all or part of the building changes to a non-industrial use resulting in full development charges becoming due and payable at the full commercial rate. Commercial uses can typically be up to 25% of floor area, and are permitted in the City's various industrial and business park zoning by-laws and allowed under the Official Plan.

Some property owners have identified challenges in having to make a substantial lump sum payment, subsequent to being originally exempted at the time of permit issuance. Considering that the change from an industrial to a commercial use provides the City with additional development charge and impost fee revenues as well as property tax revenue that is realized sooner and based on an increased property assessment value, City staff have reviewed options to establish development charge and impost fee deferral agreements for use where specific situations result in a subsequent conversion of use from industrial to non-industrial. City staff

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have reviewed similar existing policies from the Town of Markham, the City of Barrie and the Town of Halton Hills. These policies are not included in the Development Charge By-Law but can be established under Section 27(1) of the Development Charges Act.

The purpose of this report is to recommend guidelines through which City staff can approve development charge and impost fee deferral agreements when the use of a building is changed from industrial to commercial at occupancy or within 3 years of occupancy permit issuance for a new building. It is proposed that the Chief Financial Officer/City Treasurer would report annually to Council on the details of any approved development charges deferral payment agreements. The details of the recommended guidelines are included in Exhibit A of this report.

Recommendations:

That Council approve the Development Charges Deferral Guidelines, included as Exhibit A to Report Number 19-069; and

That the Mayor and Clerk be authorized to execute development charges deferral payment agreements between the City of Kingston and industrial property owners subsequent to review and approval by the Chief Financial Officer & City Treasurer and Chief Building Official, based on the Council approved Development Charges Deferral Guidelines and in a form satisfactory to the Director of Legal Services; and

That the Mayor and Clerk be authorized to execute impost fee deferral payment agreements between the City of Kingston and industrial property owners subsequent to review and approval by the Chief Financial Officer & City Treasurer and Chief Building Official, based on the Council approved Development Charges Deferral Guidelines and in a form satisfactory to the Director of Legal Services.

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Authorizing Signatures:

**Desirée Kennedy, Chief Financial Officer and
City Treasurer**

**Lanie Hurdle, Acting Chief Administrative
Officer**

Consultation with the following Members of the Corporate Management Team:

Peter Huigenbos, Acting Commissioner, Community Services

Jim Keech, President and CEO, Utilities Kingston

Not required

Deanne Roberge, Acting Commissioner, Corporate & Emergency Services

Not required

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Options/Discussion:

The City collects development charges, excluding new water and sewer infrastructure, under the *Development Charges Act, 1997* for the purposes of financing the anticipated costs of infrastructure required for future development in the municipality. The basis for these charges is provided in the 2014 Background Study in support of By-Law Number 2014-135. Impost fees are collected for the purposes of financing new water and sewer infrastructure and related capacity expansion. Impost fees are established under the *Municipal Act, 2001* and are supported by the 2014 Background Study and through By-Law Number 2009-138 as amended.

Development charges and impost fees are updated every five (5) years based on an update of the anticipated population and employment growth as well as an in depth review of all infrastructure and service needs to support the anticipated growth.

The City's Development Charge and Impost Fee By-Laws allow the municipality to set different rates based on the type of development and/or to exempt certain categories from development charges for the purposes of encouraging employment and assessment growth. Like many municipalities, the City of Kingston is currently exempting its industrial development from development charges and impost fees in order to incentivize more business growth and provide a more competitive environment to attract employers. In order to be eligible for an exemption, the developer must file an application certifying that its proposed use will qualify for the exemption upon issuance of the occupancy permit and shall not be materially altered in any manner such that the use would no longer qualify for the exemption granted. Exemptions are recorded when building permits are issued and are compensated from a tax incremental financing approach by withholding taxation revenue from the related assessment increases to compensate Development Charge and Impost Fee Reserve Funds.

The industrial exemption is based on the proposed use(s) that will occur in the building. Some industrial property owners build buildings prior to securing tenants to fill the entire space. This is a common approach across municipalities in Ontario and it does allow for building spaces to be readily available should there be interest from local businesses needing to expand and out of town business to locate in the City.

The City of Kingston does have a few property owners that build buildings in industrial areas in this manner and from time to time. Some space within these buildings is leased for commercial use. Commercial uses such as banks, restaurants and personal services are typically permitted up to 25% of the building area in Kingston's industrial and business park zoning designations to support surrounding industrial uses.

Where an application for an exemption from development charges and impost fees is approved for an industrial building at the time of building construction, and prior to occupancy, the proposed use of all or part of the building changes to be non-industrial, and a commercial tenant takes occupancy of the building, full development charges at the commercial rate will immediately become due and payable. Some property owners have identified challenges in being able to make such a substantial lump sum payment when some or all their building has been vacant. The alternative option would be for the space to remain vacant until it was leased

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for industrial/employment purposes. During the vacancy period, the City would not collect development charges and property taxes would be subject to reduced assessment values for that period. Therefore, City staff believe that it is worthwhile to consider accepting the development charge payment over time for these specific situations. Section 27(1) of the Development Charges Act allows for this concession.

The City has had a chance to review development charges deferral policies in the Town of Markham, the City of Barrie and the Town of Halton Hills. These policies were established outside of development charges by-laws. The policies vary in terms of the categories they apply to but for the most part they include provisions related to non-residential developments. The terms of deferral also vary but they all ensure that the full rate of the applicable development charges is collected within a limited number of years, plus applicable interest.

City staff have developed draft guidelines with details (Exhibit A) that allows the City to enter into development charge and impost fee deferral agreements for subsequent conversions of industrial to commercial spaces, where permitted by the OP and zoning by-laws, for a period of up to three (3) years. Staff are also recommending that the City's bank prime lending interest rate be applied to any deferral payment agreement. Information on approved agreements will be provided to Council on an annual basis as part of the Development Charge and Impost Fee Reserve Fund annual reporting.

Existing Policy/By-Law:

Development Charges Act, 1997, s. 27(1)

By-Law 2014-135 A By-Law to Establish Development Charges for the City of Kingston

Notice Provisions:

Not Applicable

Accessibility Considerations:

Not applicable

Financial Considerations:

Included in the body of the report.

Contacts:

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Other City of Kingston Staff Consulted:

Lisa Capener-Hunt, Chief Building Official, Planning, Building & Licensing

Exhibits Attached:

Exhibit A Guidelines – Development Charges Deferral Agreement

City of Kingston Development Charges Deferral Agreement Guidelines

Purpose

To provide for the deferral of payment of development charges for industrial building spaces being converted to commercial spaces at building occupancy as permitted under the City of Kingston Official Plan.

Guidelines Details:

Agreements to defer the payment of industrial building spaces converted to commercial spaces will be based on the following terms:

1. The Chief Financial Officer/City Treasurer and the Chief Building Official can jointly approve up to a 3 year deferral for an eligible application.
2. The conversion of Industrial to Commercial space is a permitted use under the City of Kingston Zoning By-Laws and does not require an Official Plan Amendment.
3. The property owner will provide the City Building Official with a copy of the commercial lease as part of the application for development charges payment deferral to the City.
4. The owner agrees to pay an administration fee in the amount of \$853 (plus HST) upon execution of the agreement. This fee will be reviewed annually with all other City fees and is subject to change as outlined in the City's Fees and Charges By-Law.
5. Payments will be made on an annual basis with the first payment due at the time of agreement execution.
6. Payments are to be amortized over a period not to exceed three (3) years with interest at the prime lending rate of the City of Kingston's bank.
7. The owner must provide post-dated cheques for each annual payment as outlined in the agreement at the time of signing the agreement.
8. The development charges deferral agreement will be registered on title.
9. Payment not made in accordance with the agreement would be deemed in default and the City may recover the amount unpaid by adding the amount to the property tax roll to be collected in the like manner as taxes.
10. Should the property be sold prior to the agreement expiration, the remaining unpaid amount will be due and payable upon closing.