



## The Corporation of the County of Wellington

### By-law Number 5523-17

A by-law to establish development charges for the Corporation of the County of Wellington.

**WHEREAS** subsection 2(1) of the *Development Charges Act, 1997* c. 27 (hereinafter called "the Act") provides that the council of a municipality may pass By-laws for the imposition of development charges against land for increased capital costs required because of the need for services arising from development in the area to which the by-law applies;

**AND WHEREAS** the Council of The Corporation of the County of Wellington ("County of Wellington") has given Notice in accordance with Section 12 of the *Development Charges Act, 1997*, of its intention to pass a by-law under Section 2 of the said Act;

**AND WHEREAS** the Council of the County of Wellington has heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charge proposal at a public meeting held on March 21, 2017;

**AND WHEREAS** the Council of the County of Wellington had before it a report entitled Development Charge Background Study dated February 24, 2017 prepared by Watson & Associates Economists Ltd., wherein it is indicated that the development of any land within the County of Wellington will increase the need for services as defined herein;

**AND WHEREAS** the Council of the County of Wellington on May 25, 2017 approved the applicable Development Charge Background Study, dated February 24, 2017, in which certain recommendations were made relating to the establishment of a development charge policy for the County of Wellington pursuant to the *Development Charges Act, 1997*;

**AND WHEREAS** the Council of the County of Wellington on March 21, 2017 determined that no additional public meeting was required.

**NOW THEREFORE THE COUNCIL OF THE COUNTY OF WELLINGTON ENACTS AS FOLLOWS:**

#### **DEFINITIONS**

1. In this by-law,
  - (1) "Accessory use" means a use, including a building, which is commonly incidental, subordinate and exclusively devoted to the main use or main building situated on the same lot;
  - (2) "Act" means the *Development Charges Act, S.O. 1997, c. 27*;
  - (3) "Administration Service" means any and all studies carried out by the municipality that are with respect to eligible services for which a development charge by-law may be imposed under the *Development Charges Act, 1997*;
  - (4) "Agricultural use" means a bona fide farming operation;
  - (5) "Apartment dwelling" means any dwelling unit within a building containing more than four dwelling units where the units are connected by an interior corridor;
  - (6) "Bedroom" means a habitable room larger than seven square metres, including a den, study, or other similar area, but does not include a living room, dining room or kitchen;
  - (7) "Board of education" means a board defined in s.s. 1(1) of the *Education Act*;

- (8) “Building Code Act” means the *Building Code Act*, R.S.O. 1990, c.B.-13, as amended;
- (9) “Bona Fide Farm Use” means the proposed development will qualify as a farm business operating with a valid Farm Business Registration Number Issued by the Ontario Ministry of Agriculture, Food and Rural Affairs and be assessed in the Farmland Realty Tax Class by the Municipal Property Assessment Corporation;
- (10) “Capital cost” means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or by others on behalf of, and as authorized by, the municipality or local board,
- (a) to acquire land or an interest in land, including a leasehold interest;
  - (b) to improve land;
  - (c) to acquire, lease, construct or improve buildings and structures;
  - (d) to acquire, lease, construct or improve facilities including,
    - (i) rolling stock with an estimated useful life of seven years or more,
    - (ii) furniture and equipment, other than computer equipment, and
    - (iii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, R.S.O. 1990, c.P.-44; and
  - (e) to undertake studies in connection with any of the matters referred to in clauses (a) to (d);
  - (f) to complete the development charge background study under Section 10 of the Act;
  - (g) interest on money borrowed to pay for costs in (a) to (d); required for provision of services designated in this by-law within or outside the municipality.
- (11) “Council” means the Council of The Corporation of the County of Wellington;
- (12) “Development” means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 6 of this by-law and including the redevelopment of land or the redevelopment, expansion, extension or alteration of a use, building or structure except interior alterations to an existing building or structure which do not change or intensify the use of land;
- (13) “Development charge” means a charge imposed pursuant to this By-law;
- (14) “Dwelling unit” means a room or suite of rooms used, or designed or intended for use by, one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons, including time share units;
- (15) “Existing Industrial Building” means a building or buildings existing on a site on the day this by-law is passed, or the first building or buildings constructed on a vacant site pursuant to site plan approval, under Section 41 of the *Planning Act*, subsequent to the passage of this by-law for which full development charges were paid, that is used for or in conjunction with:
- 15.1 the production, compounding, processing, packaging, crating, bottling, packing or assembly of raw or semi-processed goods or materials in not less than seventy five percent of the total gross floor area of the building or buildings on a site (“manufacturing”) or warehousing related to the manufacturing use carried on in the building or buildings;
  - 15.2 research or development activities in connection with manufacturing in not less than seventy five percent of the total gross floor area of the building or building on the site;

- 15.3 retail sales by a manufacturer, if retail sales are at the site where manufacturing is carried out; such retail sales are restricted to goods manufactured at the site, and the building or part of a building where such retail sales are carried out does not constitute greater than twenty five percent of the total gross floor area of the building or buildings on the site; or
- 15.4 office or administration purposes if they are:
  - 15.4.1 carried out as an accessory use to the manufacturing or warehousing, and
  - 15.4.2 in or attached to the building or structure used for such manufacturing or warehousing.
  
- (16) "Grade" means the average level of finished ground adjoining a building or structure at all exterior walls;
  
- (17) "Gross floor area" means the total floor area measured between the outside of exterior walls, or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls.
  
- (18) "Local board" means a public utility commission, public library board, local board of health, or any other board, commission, committee or body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of the municipality or any part or parts thereof;
  
- (19) "Local services" means those services or facilities which are under the jurisdiction of the municipality and are related to a plan of subdivision or within the area to which the plan relates, required as a condition of approval under s.51 of the *Planning Act*, or as a condition of approval under s.53 of the *Planning Act*;
  
- (20) "Multiple dwelling" means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;
  
- (21) "Municipality" means The Corporation of the County of Wellington;
  
- (22) "Non-residential uses" means a building or structure used for other than a residential use;
  
- (23) "Owner" means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;
  
- (24) "Planning Act" means the *Planning Act*, R.S.O. 1990, c.P.-13, as amended;
  
- (25) "Place of Worship" means that part of a building or structure that is exempt from taxation as a place of worship under the *Assessment Act*, R.S.O. 1990, Chap. A.31, as amended, or any successor thereof;
  
- (26) "Regulation" means any regulation made pursuant to the Act;
  
- (27) "Residential uses" means lands, buildings or structures or portions thereof used, or designed or intended for use as a home or residence of one or more individuals, and shall include a single detached dwelling, a semi-detached dwelling, a multiple dwelling, an apartment dwelling, and the residential portion of a mixed-use building or structure;
  
- (28) "Semi-detached dwelling" means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;

- (29) "Services" means services set out in Schedule "A" to this By-law;
- (30) "Single detached dwelling" means a completely detached building containing only one dwelling unit.
- (31) "Special care/special need dwelling" means:
  - a) a building containing two or more dwelling units, which units have a common entrance from street level:
    - (i) where the occupants have the right to use in common, halls, stairs, yards, common rooms and accessory buildings;
    - (ii) which may or may not have exclusive sanitary and/or culinary facilities;
    - (iii) that is designed to accommodate persons with specific needs, including, but not limited to, independent permanent living arrangements; and
    - (iv) where support services such as meal preparation, grocery shopping, laundry, housekeeping, nursing, respite care and attendant services are provided at various levels; and includes, but is not limited to, retirement homes or lodges nursing homes, charitable dwellings, group homes (including correctional group homes) and hospices;
  - b) a building that is a student residence;

#### **CALCULATION OF DEVELOPMENT CHARGES**

- 2. (1) Subject to the provisions of this By-law, development charges against land shall be imposed, calculated and collected in accordance with the base rates set out in Schedule "B", which relate to the services set out in Schedule "A".
- (2) The development charge with respect to the uses of any land, building or structure shall be calculated as follows:
  - a) in the case of residential development or redevelopment or the residential portion of a mixed use development or redevelopment, as the sum of the product of the number of dwelling units of each type multiplied by the corresponding total amount for such dwelling unit type, as set out in Schedule "B";
  - b) in the case of non-residential development or redevelopment, or the non-residential portion of a mixed use development or redevelopment, as the sum of the product of the gross floor area multiplied by the corresponding total amount for such gross floor area as set out in Schedule "B".
- (3) Council hereby determines that the development or redevelopment of land, buildings or structures for residential and non-residential uses will require the provision, enlargement or expansion of the services referenced in Schedule "A".

#### **PHASE-IN OF DEVELOPMENT CHARGES**

- 3. The development charges imposed pursuant to this by-law are not being phased-in and are payable in full, subject to the exemptions herein, from the effective date of this by-law.

#### **APPLICABLE LANDS**

- 4. (1) Subject to Sections 5 and 6, this by-law applies to all lands in the municipality, whether or not the land or use is exempt from taxation under Section 3 of the *Assessment Act*, R.S.O. 1990, c.A.-31.

- (2) This by-law shall not apply to land that is owned by and used for the purposes of:
- (a) a board of education;
  - (b) any municipality or local board thereof;
  - (c) a hospital under the *Public Hospitals Act*;
  - (d) a college or university;
  - (e) a cemetery or place of worship;
  - (f) non-residential farm building constructed for bona fide farm uses.
- (3) Further to Section (2)(f), where the municipality is unable to determine whether the development is a bona fide farm use, the owner shall pay the full non-residential development charge, in accordance with section 4(1) herein. If, within 36 months of payment of the full non-residential development charge, the owner provides a valid Farm Business Registration Number issued by the Ontario Ministry of Agriculture, Food and Rural Affairs and evidence satisfactory to the municipality that the development has been identified in the Farmland Realty Tax Class by the Municipal Property Assessment Corporation, the municipality shall refund to the owner the difference between the full non-residential development charge paid and the Farm Building development charge applicable as at the date a building permit was issued.

#### **RULES WITH RESPECT TO EXEMPTIONS FOR INTENSIFICATION OF EXISTING HOUSING**

5. (1) Notwithstanding Section 4 above, no development charge shall be imposed with respect to developments or portions of developments as follows:
- (a) the enlargement of an existing residential dwelling unit;
  - (b) the creation of one or two additional residential dwelling units in an existing single detached dwelling where the total gross floor area of the additional unit(s) does not exceed the gross floor area of the existing dwelling unit;
  - (c) the creation of one additional dwelling unit in any other existing residential building provided the gross floor area of the additional unit does not exceed the smallest existing dwelling unit already in the building.
- (2) Notwithstanding subsection 5(1)(b), development charges shall be calculated and collected in accordance with Schedule "B" where the total residential gross floor area of the additional one or two dwelling units is greater than the total gross floor area of the existing single detached dwelling unit.
- (3) Notwithstanding subsection 5(1)(c), development charges shall be calculated and collected in accordance with Schedule "B" where the additional dwelling unit has a residential gross floor area greater than,
- (a) in the case of semi-detached house or multiple dwelling, the gross floor area of the existing dwelling unit, and
  - (b) in the case of any other residential building, the residential gross floor area of the smallest existing dwelling unit.

## RULES WITH RESPECT TO AN "INDUSTRIAL" EXPANSION EXEMPTION

6. (1) Notwithstanding Section 4, if a development includes the enlargement of the gross floor area of an existing industrial building:
  - (a) there shall be an exemption from the payment of development charges for one or more enlargements of an existing industrial building on its site, whether attached or separate from the existing industrial building, up to a maximum of fifty per cent of the gross floor area before the first enlargement for which an exemption from the payment of development charges was granted pursuant to the *Development Charges Act* or this subsection. Development charges shall be imposed in accordance with Schedule "B" with respect to the amount of floor area of an enlargement that results in the gross floor area of the industrial building being increased by greater than fifty per cent of the gross floor area of the existing industrial building; or
  - (b) if the gross floor area is enlarged by more than 50 percent, development charges are payable on the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement.

## DEVELOPMENT CHARGES IMPOSED

7. (1) Subject to subsection (2), development charges shall be calculated and collected in accordance with the provisions of this by-law and be imposed on land to be developed for residential and non-residential uses, where, the development requires,
  - (a) the passing of a zoning by-law or an amendment thereto under Section 34 of the *Planning Act*;
  - (b) the approval of a minor variance under Section 45 of the *Planning Act*;
  - (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
  - (d) the approval of a plan of subdivision under Section 51 of the *Planning Act*;
  - (e) a consent under Section 53 of the *Planning Act*;
  - (f) the approval of a description under Section 50 of the *Condominium Act*, R.S.O. 1990, c.C.-26; or
  - (g) the issuing of a permit under the *Building Code Act*, in relation to a building or structure.
- (2) Subsection (1) shall not apply in respect to:
  - (a) local services installed or paid for by the owner within a plan of subdivision or within the area to which the plan relates, as a condition of approval under Section 51 of the *Planning Act*;
  - (b) local services installed or paid for by the owner as a condition of approval under Section 53 of the *Planning Act*.

### **LOCAL SERVICE INSTALLATION**

8. Nothing in this by-law prevents Council from requiring, as a condition of an agreement under Section 51 or 53 of the *Planning Act*, that the owner, at his or her own expense, shall install or pay for such local services, within the Plan of Subdivision or within the area to which the plan relates, as Council may require.

### **MULTIPLE CHARGES**

9. (1) Where two or more of the actions described in subsection 7(1) are required before land to which a development charge applies can be developed, only one development charge shall be calculated and collected in accordance with the provisions of this by-law.
- (2) Notwithstanding subsection (1), if two or more of the actions described in subsection 7(1) occur at different times, and if the subsequent action has the effect of increasing the need for municipal services as set out in Schedule "A", an additional development charge on the additional residential units and additional gross floor area shall be calculated and collected in accordance with the provisions of this by-law.

### **SERVICES IN LIEU**

10. (1) Council may authorize an owner, through an agreement under Section 38 of the Act, to substitute such part of the development charge applicable to the owner's development as may be specified in the agreement, by the provision at the sole expense of the owner, of services in lieu. Such agreement shall further specify that where the owner provides services in lieu in accordance with the agreement, Council shall give to the owner a credit against the development charge in accordance with the agreement provisions and the provisions of Section 39 of the Act, equal to the reasonable cost to the owner of providing the services in lieu. In no case shall the agreement provide for a credit that exceeds the total development charge payable by an owner to the municipality in respect of the development to which the agreement relates.
- (2) In any agreement under subsection (1), Council may also give a further credit to the owner equal to the reasonable cost of providing services in addition to, or of a greater size or capacity, than would be required under this by-law.
- (3) The credit provided for in subsection (2) shall not be charged to any development charge reserve fund.

### **RULES WITH RESPECT TO RE-DEVELOPMENT**

11. In the case of the demolition of all or part of a residential building or structure:
  - (a) a credit shall be allowed, provided that the land was improved by occupied structures (or structures capable of occupancy) within the five years prior to the issuance of the building permit, and the building permit has been issued for the development or redevelopment within five years from the date the demolition permit has been issued; and
  - (b) if a development or redevelopment involves the demolition of and replacement of a residential building or structure, a credit shall be allowed equivalent to the number of dwelling units demolished multiplied by the applicable residential development charge in place at the time the development charge is payable.

- (c) if a development or redevelopment involves the demolition of and replacement of a non-residential building or structure, a credit shall be allowed equivalent to the gross floor area demolished multiplied by the applicable non-residential development charge in place at the time the development charge is payable.
12. A credit can, in no case, exceed the amount of the development charge that would otherwise be payable, and no credit is available if the existing land use is exempt under this by-law.

#### **TIMING OF CALCULATION AND PAYMENT**

13. (1) Development charges shall be calculated and payable in full in money or by provision of services as may be agreed upon, or by credit granted under the Act, on the date that the first building permit is issued in relation to a building or structure on land to which a development charge applies.
- (2) Where development charges apply to land in relation to which a building permit is required, the building permit shall not be issued until the development charge has been paid in full.

#### **RESERVE FUNDS**

14. (1) Monies received from payment of development charges under this by-law shall be maintained in eleven separate reserve funds as follows: roads and related; libraries; studies; ambulance, childcare, police, health, social services administration, homes for the aged, waste diversion and *Provincial Offences Act*.
- (2) Monies received for the payment of development charges shall be used only in accordance with the provisions of Section 35 of the Act.
- (3) Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.
- (3) Where any unpaid development charges are collected as taxes under subsection (4), the monies so collected shall be credited to the development charge reserve funds referred to in subsection (1).
- (4) The Treasurer of the Municipality shall, in each year, furnish to Council a statement in respect of the reserve funds established hereunder for the prior year, containing the information set out in Section 12 of O.Reg. 82/98.

#### **BY-LAW AMENDMENT OR APPEAL**

15. (1) Where this by-law or any development charge prescribed thereunder is amended or repealed either by order of the Ontario Municipal Board or by resolution of the Municipal Council, the Municipal Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal.
- (2) Refunds that are required to be paid under subsection (1) shall be paid with interest to be calculated as follows:
- (a) Interest shall be calculated from the date on which the overpayment was collected to the date on which the refund is paid;
- (b) The Bank of Canada interest rate in effect on the date of enactment of this by-law shall be used.
- (3) Refunds that are required to be paid under subsection (1) shall include the interest owed under this section.



### **BY-LAW INDEXING**

16. The development charges set out in Schedule "B" to this by-law shall be adjusted annually as of January 1<sup>st</sup> of each year commencing January 1, 2018, without amendment to the by-law, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics".

### **SEVERABILITY**

17. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction to be ultra vires, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all other provisions of this by-law shall remain in full force and effect.

### **HEADINGS FOR REFERENCE ONLY**

18. The headings inserted in this by-law are for convenience of reference only and shall not affect the construction of interpretation of this by-law.

### **BY-LAW REGISTRATION**

19. A certified copy of this by-law may be registered on title to any land to which this by-law applies.

### **BY-LAW ADMINISTRATION**

20. This by-law shall be administered by the County Treasurer.

### **SCHEDULES TO THE BY-LAW**

21. The following Schedules to this by-law form an integral part of this by-law:
- Schedule "A" - Schedule of Designated Municipal Services
  - Schedule "B" - Schedule of County-wide Development Charges

### **DATE BY-LAW EFFECTIVE**

22. This By-law shall come into force and effect on the first day of June 2017.

### **DATE BY-LAW EXPIRES**

23. This By-law will expire at 12:01 a.m. on June 1, 2022 unless it is repealed by Council at an earlier date.

### **SHORT TITLE**

24. This by-law may be cited as the "County of Wellington Development Charge By-law, 2017."

### **EXISTING BY-LAW REPEALED**

25. By-law Number 5309-12 is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS MAY 25, 2017.



A handwritten signature in blue ink, appearing to read "Dennis Lever", written above a horizontal line.

DENNIS LEVER - WARDEN

A handwritten signature in black ink, appearing to read "Donna Bryce", written above a horizontal line.

DONNA BRYCE - COUNTY CLERK

**SCHEDULE A  
to By-law Number 5523-17**

**Designated County Services under this By-law**

- 1) Library Services
- 2) Studies
- 3) Ambulance
- 4) Police Services
- 5) Roads and Related
- 6) Child Care
- 7) Provincial Offences Act
- 8) Health Unit
- 9) Social Services Administration
- 10) Homes for the Aged
- 11) Waste Diversion

**SCHEDULE B**

to By-law Number 5523-17

**SCHEDULE OF COUNTY-WIDE DEVELOPMENT CHARGES**

**EFFECTIVE JUNE 1, 2017**

SERVICE	RESIDENTIAL					NON-RESIDENTIAL (per s.f. of Gross Floor Area)
	Single-Detached Dwelling & Semi-Detached Dwelling SD	Apartments 2 Bedrooms + APT2	Apartments Bachelor & 1 Bedroom APT1	Other Multiples OTH	Special Care / Special Dwelling Units SCD	
Library	944	613	447	746	296	0.04
Studies	69	45	33	55	22	0.03
Ambulance	54	35	26	43	17	0.01
Police	130	84	62	103	41	0.05
Roads and Related	2,733	1,773	1,294	2,159	857	1.03
Childcare	21	14	10	17	7	-
Provincial Offences Act	121	79	57	96	38	0.04
Health Unit	93	60	44	73	29	0.01
Social Services	115	75	54	91	36	0.01
Homes for the Aged	86	56	41	68	27	0.01
Waste Diversion	348	226	165	275	109	0.13
<b>TOTAL</b>	<b>4,714</b>	<b>3,060</b>	<b>2,233</b>	<b>3,726</b>	<b>1,479</b>	<b>1.36</b>