

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 5072-18**

**A BY-LAW TO ESTABLISH DEVELOPMENT CHARGES FOR
THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE
(December 31, 2018)**

WHEREAS Section 2(1) of the Development Charges Act, 1997, c.27 (hereinafter called the Act) enables the council of a municipality by by-law to impose development charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies and the development requires one of the actions set out in subsection 2(2) of the Act;

AND WHEREAS the Council of the Corporation of the Town of Niagara-on-the-Lake, at its meeting of July 16, 2018, approved a report dated May 17, 2018, entitled "Niagara-on-the-Lake Development Charges Background Study", prepared by Watson & Associates Economists Ltd.;

AND WHEREAS the Council has given Notice in accordance with Section 12 of the Development Charges Act, 1997 of its development charges proposal and held a public meeting on July 9, 2018;

AND WHEREAS the Council has heard all persons who applied to be heard in objection to, or in support of, the development charges proposal at its public meeting and provided a subsequent period for written communications to be made;

AND WHEREAS the Council in adopting the said report on July 16, 2018 directed that development charges be imposed on land under development or redevelopment within the geographical limits of the municipality as hereinafter provided.

NOW THEREFORE BE IT ENACTED AS A BY-LAW OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE, AS FOLLOWS:

1. In this by-law,

DEFINITIONS

(1) "Act" means the Development Charges Act, 1997, C.27;

- (2) "accessory use" means where used to describe a use, building or structure, that the use, building or structure is naturally and normally incidental, subordinate in purpose and floor area, and exclusively devoted to a principal use, building or structure;
- (3) "agricultural use" means use or intended use for bona fide farming purposes:
- (a) including (but not limited to):
 - (i) cultivation of crops, whether on open land or in greenhouses, including (but not limited to) fruit, vegetables, herbs, grains, field crops, sod, trees, shrubs, flowers, and ornamental plants;
 - (ii) raising of animals, including (but not limited to) cattle, horses, pigs, poultry, livestock, fish;
 - (iii) agricultural animal husbandry, dairying, equestrian activities, horticulture, fallowing, pasturing, and market gardening; and
 - (iv) services related to the boarding or breeding of household pets.
 - (b) but excluding:
 - (i) retail sales activities; including but not limited to restaurants, banquet facilities, hospitality facilities and gift shops;
 - (ii) services related to grooming of household pets;
- (4) "apartment" means any residential building containing more than four dwelling units where the units are connected by an interior corridor, but does not include a special care/special need dwelling unit/room, or dormitories;
- (5) "back-to-back townhouse dwellings" means a building containing more than two dwelling units separated vertically by a common wall, including a rear common wall, that do not have rear yards;
- (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) "benefiting area" is as defined in the Act;
- (8) "board of education" is as defined in subsection 1(1) of the Education Act;

- (9) "Building Code Act" means the Building Code Act, S.O. 1992, c.23, as amended;
- (10) "capital cost" is as defined in the Act;
- (11) "council" means the Council of the municipality;
- (12) "credits" are defined as per sections 8 and 9 of this by-law;
- (13) "development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof, and includes redevelopment notwithstanding the foregoing, development does not include temporary structures, including but not limited to, seasonal hoop structures, seasonal fabric structures, tents, produce sales stands or temporary sales offices not used for the purposes of habitation;
- (14) "development charge" is as defined in the Act;
- (15) "dwelling unit" means any part of a building or structure used, designed or intended to be used as a domestic establishment in which one or more persons may sleep and are provided with access to culinary and/or sanitary facilities;
- (16) "farm building" means that part of a bona fide farming operation encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use;
- (17) "front-ending agreement" is as defined in the Act;
- (18) "grade" means the average level of finished ground adjoining a building or structure at all exterior walls;
- (19) "gross floor area" means the total area of all floors above grade of a dwelling unit measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit from another dwelling unit or other portion of a building;

In the case of a non-residential building or structure, or in the case of a mixed-use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below grade measured between the outside surfaces of the exterior walls, or between the outside surfaces of exterior walls and the centre line of party walls dividing a non-residential use and a residential use, except for:

- a room or enclosed area within the building or structure above or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
 - loading facilities above or below grade; and
 - a part of the building or structure below grade that is used for the parking of motor vehicles or for storage;
- (20) "level of service" means the prescribed level of service referenced in calculating the Schedule "B" charges;
- (21) "live/work unit" means a unit which contains separate residential and non-residential areas intended for both residential and non-residential concurrently, and shares a common wall or floor with direct access between the residential and non-residential areas;
- (22) "local board" is as defined in the Act;
- (23) "local services" means those services, facilities or things 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 or are to be installed or paid for by the owner as a condition of approval under Section 51 of the Planning Act;
- (24) "mobile home" means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer, tent trailer or seasonal mobile home;
- (25) "municipality" means The Corporation of the Town of Niagara-on-the-Lake;
- (26) "non-profit" means any organizations that are incorporated under the Ministry of Community and Social Services and hold a Letter of Patent from the Ministry.
- (27) "non-residential use" means land, buildings or structures or portion thereof used for other than residential use, but includes short stay rental use;
- (28) "official plan" means the Official Plan of the Town of Niagara-on-the-Lake and any amendments thereto;
- (29) "other multiple family dwellings" means all dwellings other than single-family dwellings, semi-detached dwellings and apartment units including but not limited to, mobile homes, row dwellings, multiplex, back-to-back townhouse dwellings, stacked townhouse dwellings, and the residential component of live/work units.

- (30) "place of worship" means any building or part thereof that is owned by a church or religious organization that is exempt from taxation as a place of worship pursuant to the Assessment Act, R.S.O. 1990, c. A.31, as amended;
- (31) "Planning Act" means the Planning Act, as amended;
- (32) "rate" means the Bank of Canada rate on the day the by-law comes into force updated on the first business day of every January, April, July and October;
- (33) "regulation" means any regulation made pursuant to the Act;
- (34) "residential use" means land or buildings or structures or portion thereof of any kind whatsoever used, designed or intended to be used as living accommodations for one or more individuals;
- (35) "rural areas" means those areas within the municipality not defined as urban areas;
- (36) "semi-detached dwelling" means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but no other parts, attached to another dwelling unit where the residential units are not connected by an interior corridor;
- (37) "services in lieu" means those services specified in an agreement made under Section 38 of the Act;
- (38) "servicing agreement" means an agreement between a landowner and the municipality relative to the provision of services to specified lands within the municipality;
- (39) "short stay rental use" means use or intended use for human habitation on a temporary basis for profit (such as a hotel, motel, guest cabin, and boarding, lodging and rooming house);
- (40) "single detached dwelling unit" means a residential building consisting of one dwelling unit and not attached to another structure;
- (41) "special care/special dwelling unit/room" mean a residence
 - (a) containing two or more dwelling rooms, which rooms have common entrance from street level; and

- (b) where the occupants have the right to use in common with other occupants, halls, stairs, yards, common room, and accessory buildings; and
 - (c) that is designed to accommodate persons with specific needs, including but not limited to, independent permanent living arrangements; and where support services, such as meal preparation, grocery shopping, laundry, housing, nursing, respite care, and attending services are provided at various levels; and includes but is not limited to retirement homes or lodges, group homes, dormitories, and hospices.
- (42) "stacked townhouse dwelling" means a building containing two or more dwelling units where each dwelling unit is separated horizontally and/or vertically from another dwelling unit by a common wall or floor;
- (42) "subsidized housing units" means any residential use declared by resolution of Council to be subsidized housing;
- (43) "urban areas" means those areas within the municipality where municipal sanitary, stormwater, and water services are available or are expected to be made available during the term of the by-law.

Schedule of Development Charges

1. (1) Subject to the provisions of this by-law, development charges against land shall be calculated and collected in accordance with the base rates set out in Schedules "B" which relate to the services set out in Schedule "A".
- (2) This by-law does not provide for the phasing in of the schedule of base rates in Schedule "B".
- (3) The development charge with respect to the use of any land, buildings or structures shall be calculated as follows:
 - (a) in the case of residential development, or the residential portion of a mixed-use development, based upon the number and type of dwelling units. This By-law establishes the following categories of residential development:
 - (i) single-detached or semi-detached dwelling units,
 - (ii) two bedroom and larger apartments or one-two bedroom, non-apartment multiple dwelling units,

- (iii) bachelor or one-bedroom apartment units, and
 - (iv) special care/special dwelling unit/room, and
 - (v) all other dwelling unit types.
 - (b) in the case of non-residential development, based on the gross floor area of buildings or structures to be constructed;
 - (c) the water services charge is applicable to development located within the area to which services are available or expected to be made available during the term of the by-law;
 - (d) the wastewater services charge is applicable to development located within the area to which services are available or expected to be made available during the term of the by-law;
 - (e) the stormwater services charge is applicable to development located within the area to which services are available or expected to be made available during the term of the by-law;
- (4) Council hereby determines that the development of land, buildings or structures for residential or non-residential uses have required or will require the provision, enlargement, expansion or improvement of the services referenced in Schedule "A".
- (5) Notwithstanding the provision of subsection (1), the development of a building is exempt from that portion of the development charges calculated for any particular service, if it is located outside of the boundaries applicable to such service.
- (6) Nothing in this By-law affects the connection charges for connection to the following municipally-constructed works:
- (i) Epp Drain Diversion,
 - (ii) Concession 3 water main, and
 - (iii) Queenston Road Sanitary Sewer.

Applicable Lands

2. (1) Subject to subsections (2), (3), (4), (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.
- (2) This by-law shall not apply to land that is owned by and used for the purposes of:
 - (a) a board of education as defined in Subsection 1(1) of the Education Act;
 - (b) any municipality or local board thereof;
 - (c) the development of a non-residential farm building used for bona fide agricultural purposes;
 - (d) that portion of a place of worship which is used exclusively as a place of worship for religious services and any reception and meeting areas used in connection with, or integral to, the worship space, including hallways, attached meeting rooms and lobbies and excluding, but not limited to, areas such as office, storage buildings, kitchen, classrooms, fellowship hall and library.
- (3) This by-law shall not apply to:
 - (a) the enlargement of the gross floor area of an existing industrial building, if the gross floor area is enlarged by 50 percent or less and assuming that no previous expansions have taken place since 1991;
 - (b) for the purpose of subsection (a) the terms "gross floor area" and "existing industrial building" shall have the same meaning as those terms have in O. Reg. 82/98 made under the Act;
 - (c) Notwithstanding subsection (a), if the gross floor area is enlarged by more than 50 percent, development charges shall be calculated and collected in accordance with Schedule B in the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement.
- (4) No development charge shall be levied for development to the extent of one dwelling unit on a vacant lot of record existing as of November 18, 1991.
- (5) This by-law shall not apply to that category of exempt development described in subsection 2(3) of the Development Charges Act, 1997, and Section 2 of O. Reg. 82/98.

- (6) 50% of the development charges otherwise applicable shall be levied against non-profit special care or non-profit retirement homes in a building containing more than ten dwelling units.
 - (7) Where a conflict exists between the provision of the new By-law and any other signed pre-existing agreement between the Town and the owner, with respect to land to be charged under this By-law, the provisions of such agreement prevail to the extent of the conflict.
 - (8) This by-law is not applicable to development for which a complete application for building permit has been submitted and the development charge has been paid, prior to the in-force date of this by-law.
4. (1) Subject to subsection (2), development charges shall apply to, and shall be calculated and collected in accordance with the provisions of this by-law on land to be developed for residential and non-residential use, where,
- (a) development of the area to which the by-law relates, creates the need for increased capital costs required because of increased needs for servicing thereto, and
 - (b) the development requires,
 - (i) the passing of a zoning by-law or of an amendment thereto under Section 34 of the Planning Act;
 - (ii) the approval of a minor variance under Section 45 of the Planning Act;
 - (iii) a conveyance of land to which a by-law passed under subsection 50(7) of the Planning Act applies;
 - (iv) the approval of a plan of subdivision under Section 51 of the Planning Act;
 - (v) a consent under Section 53 of the Planning Act;
 - (vi) the approval of a description under Section 50 of the Condominium Act; or
 - (vii) the issuing of a permit under the Building Code Act, 1992, in relation to a building or structure.
- (2) Subsection (1) shall not apply in respect of:

- (a) local services related to a plan of subdivision or within the area to which the plan relates, to be installed or paid for by the owner as a condition of approval under section 51 of the Planning Act;
- (b) local services to be installed or paid for by the owner as a condition of approval under section 53 of the Planning Act;

Existing Agreements

- 5. An agreement with respect to charges related to development registered prior to passage of this by-law remains in effect after enactment of this by-law.

Local Service Installation

- 6. Nothing in this by-law prevents Council from requiring, as a condition of an agreement under section 41, 51 or 53 of the Planning Act, that the owner, at his or her own expense, shall install such local services within the plan of subdivision and otherwise, as Council may require, or that the owner pay for local connections to water mains, sanitary sewers and/or storm drainage facilities installed at the owner's expense.

Multiple Charges

- 1. (1) Where two or more of the actions described in Section 4(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), more than one development charge may apply to the same area where there is no duplication in the servicing costs being recovered.

Credits

- 8. (1) Council shall give a development charge credit to a person allowed by Council to perform work that relates to a service in Schedule A and addressed in the project listing forming part of the Background Study.
- (2) The amount of such credit is the reasonable cost of doing the work, as agreed by the municipality and the person given the credit, prior to the issuance of the first building permit related thereto, provided that such cost does not involve an increase in the average level of service in the Town 2004-2013 and the credit is only in relation to the service to which the work relates.

- (3) In the case of the demolition or conversion of all or part of a residential or non-residential building or structure:
- (a) a development charge credit shall be allowed, provided that a building permit has been issued for the development or redevelopment within five years from the date the demolition permit has been issued;
 - (b) if a development or redevelopment involves the demolition of, and replacement of, a building or structure, or the conversion from one principal use to another, a credit shall be allowed equivalent to:
 - (i) the number of dwelling units demolished/converted multiplied by the applicable residential development charge in place at the time the development charge is payable. The credit can, in no case, exceed the amount of the development charge that would otherwise be payable, and/or
 - (ii) The gross floor area of the building demolished/converted, multiplied by the current non-residential development charge in place at the time the development charge is payable. The credit can, in no case, exceed the amount of the development charge that would otherwise be payable.

Front-end Agreements

9. (1) The Town may enter into a front-ending agreement with respect to work done after the agreement is entered into, related to the provision of services for which there will be an increased need as a result of development, benefiting a defined area, to which the land and service(s) the Town's development charge by-law applies.
- (2) Such agreement may provide for persons developing land within the defined area to reimburse some part of the costs of the work.
- (3) A person is entitled to be given a credit towards a development charge for the amount of his non-reimbursable share of the costs of work under a front-ending agreement.

Timing of Calculation and Payment

10. (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 by the Act or this by-law, 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, or in a manner or at a time otherwise lawfully agreed upon.
- (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.
- (3) Notwithstanding subsections (1) and (2), an owner may enter into an agreement with the municipality to provide for the payment in full of a development charge before building permit issuance or later than the issuing of a building permit and any such agreement may be registered on title.

By-law Registration

11. A certified copy of this by-law or agreement thereunder may be registered on title to any land to which this by-law applies.

Reserve Fund(s)

12. (1) Monies received from payment of development charges plus interest earned thereon, shall be maintained in separate reserve funds for each category of service to which the development charge relates, and may be spent only for capital costs determined under paragraphs 2 to 8 of subsection 5(1) of the Act.
- (2) Where the Town borrows money from one of these reserve funds, it shall repay the amount used, plus interest, at a rate no less than the prescribed minimum interest rate.
- (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 in the same manner as taxes.
- (4) Where any unpaid development charges are collected as taxes under subsection (3), the monies so collected shall be credited to the development charge reserve fund or funds referred to in subsection (1).

- (5) The Treasurer of the Municipality shall, in each year on or before May 1, commencing in 2015 for the 2014 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 43 of the Act and Sections 12 and 13 of O. Reg. 82/98.

By-law Amendment of Repeal

13. (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) In the case of a repeal by the Ontario Municipal Board, the municipality shall refund any development charge paid under the by-law.
 - (3) In the case of a development charge by-law amendment by the Ontario Municipal Board, the municipality shall refund the difference between any development charge paid under the by-law and the development charge that would have been payable under the by-law as amended.
 - (4) Such refunds are to be made within thirty days after the repeal or amendment.
 - (5) The municipality shall pay interest on an amount it refunds at a rate not less than the prescribed minimum interest rate from the time the amount was paid to it, to the time it is refunded.

Development Charge Schedule Indexing

14. The development charges referred to in Schedule "B" shall be adjusted annually, without amendment to this by-law, commencing on January 1, 2019, and annually thereafter in each January while this by-law is in force, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, Construction Price Statistics, Catalogue Number 62-007.

By-law Administration

15. This by-law shall be administered by the Municipal Treasurer.

Schedules to By-law

16. The following schedules to this by-law form an integral part of this by-law:

Schedule "A" - Designated Municipal Services

Schedule "B" - Schedule of Development Charges

Existing By-laws Repealed

17. The Town's current development charge by-law which includes By-law 4265-08 is repealed as of the date on which this by-law comes into force.

Date By-law Effective


18. This by-law shall come into force on January 1, 2019.
19. Each of the clauses of the by-law is separate and independent, and in the event that any clause of this by-law is found, for any reason, to be invalid, the remainder of the by-law shall continue in full force and effect and the by-law shall be read as if such invalid clause was not contained therein.

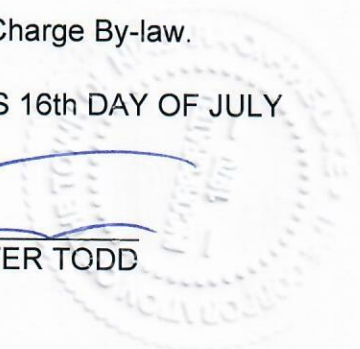
Short Title

20. This by-law may be cited as the Town-wide Development Charge By-law.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 16th DAY OF JULY 2018.


LORD MAYOR PAT DARTE


TOWN CLERK PETER TODD



SCHEDULE A
to By-law Number 5072-18
TOWN OF NIAGARA-ON-THE-LAKE
DESIGNATED MUNICIPAL SERVICES

Town-wide Services

- Services Related to a Highway
 - Roads
 - Facilities and Vehicles
- Fire Protection Services
 - Fire Stations
 - Fire Vehicles
 - Fire Small Equipment & Gear
- Parking Services
 - Parking Spaces and Meters
- By-law Services
 - By-law Vehicles
- Indoor & Outdoor Recreation Services
 - Parkland Development
 - Park Vehicles
 - Recreation Facilities
- Library Services
 - Facilities
 - Collection Materials
- Administration
 - Growth-related Studies

Urban-area Services

- Stormwater Services
 - Storm Sewers
- Wastewater Services
 - Sanitary Sewers
- Water Services
 - Distribution

SCHEDULE B
to By-law Number 5072-18
Schedule of Development Charges

Service	RESIDENTIAL				Special Care/Special Dwelling Units	NON-RESIDENTIAL (per sq.ft. of Gross Floor Area)
	Single and Semi-Detached Dwelling	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Other Multiples		
Municipal Wide Services:						
Services Related to a Highway	3,268	2,221	1,889	2,682	1,366	1.97
By-law Services	3	2	2	2	1	0.00
Fire Protection Services	1,165	792	673	956	487	0.82
Indoor & Outdoor Recreation Services	3,680	2,501	2,127	3,020	1,538	0.27
Library Services	171	116	99	140	71	0.01
Administration	560	381	324	460	234	0.40
Parking	61	41	35	50	25	0.04
Total Municipal Wide Services	8,908	6,054	5,149	7,310	3,722	3.51
Urban Services						
Stormwater Drainage and Control Services	-	-	-	-	-	0.00
Wastewater Services	1,147	780	663	941	479	0.71
Water Services	216	147	125	177	90	0.14
	232	158	134	190	97	0.15
Total Urban Services	1,595	1,085	922	1,308	666	1.00
GRAND TOTAL RURAL AREA	8,908	6,054	5,149	7,310	3,722	3.51
GRAND TOTAL URBAN AREA	10,503	7,139	6,071	8,618	4,388	4.51