

THE CORPORATION OF THE TOWNSHIP OF WELLESLEY

BY-LAW NO. 55/2019

**BEING A BY-LAW TO IMPOSE DEVELOPMENT CHARGES
IN THE CORPORATION OF THE TOWNSHIP OF WELLESLEY
PURSUANT TO THE DEVELOPMENT CHARGES ACT, S.O., 1997, C.98.**

WHEREAS the Development Charges Act, S.O., 1997 c.98 authorizes municipalities to pass By-laws for the imposition of development charges against land if the development of land would increase the need for services;

AND WHEREAS Council wishes to ensure that the capital cost of meeting growth related demands for services is met but does not place a financial burden upon the Township's existing taxpayers, and also that new taxpayers bear no more than the net capital cost attributable to providing the current level of services;

AND WHEREAS section 2(1) of the Development Charges Act, 1997, S.O., 1997, c.27 (the "Development Charges Act") enables the Council to pass By-laws for the imposition of development charges against land to pay for increased capital costs required because of increased needs for services arising from the development or redevelopment of land;

AND WHEREAS the Township of Wellesley has undertaken a Development Charges Background Study, pursuant to s.10 of the Development Charges Act to investigate the increased need for services that will result from such development;

AND WHEREAS the Township has, pursuant to s.12 of the Development Charges Act, has given notice of a public meeting in the manner and to the persons and organizations prescribed by Ontario Regulation 82/98;

AND WHEREAS such public meeting was held on November 5, 2019 in the Council Chambers of the Township of Wellesley;

AND WHEREAS the Township ensured that the proposed By-law and the background study were made available to the public at least two weeks prior to the public meeting;

AND WHEREAS any person who attended the meeting was allowed to make representations in respect of the proposed development charges;

AND WHEREAS Council, having reviewed the study and the proposed By-law and having considered all to the representations made at the public meeting, directed that this By-law be enacted;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF WELLESLEY ENACTS AS FOLLOWS:

1. DEFINITIONS

In this By-law:

- a) **“Accessory building”** means a building or structure, or part of a building or structure, that is:
 - (i) a parking garage that is exclusively devoted to providing vehicle parking to the main use situated on the same Site;

- (ii) a mechanical room that is exclusively devoted to providing heating, cooling, ventilating, electrical, mechanical or telecommunications equipment for a building or buildings that contain one or more Dwelling Units or Lodging Units situated on the same Site;
 - (iii) an entrance way, elevator, stairwell or hallway that provides access to a Dwelling Unit or Lodging Unit, or Dwelling Units or Lodging Units, on the same Site;
 - (iv) a pool area, change room, restroom, fitness facility, kitchen, laundry room, lounge or meeting room that is for the exclusive use of the residents of a Dwelling Unit or Lodging Unit, or Dwelling Units or Lodging Units, on the same Site;
 - (v) a storage room that provides storage exclusively to a resident or residents of a Dwelling Unit or Lodging Unit, or Dwelling Units or Lodging Units, on the same Site; or
 - (vi) an exterior deck, porch, canopy, gazebo, storage shed or stairway that is exclusively devoted to the use of the residents of a Dwelling Unit or Lodging Unit, or Dwelling Units or Lodging Units, on the same Site;
- b) And for the purposes of this definition, “**Site**” shall include common elements of the same condominium as the applicable main use, buildings, Dwelling Units or Lodging Units; “**Accessory Use**” means a use that is normally subordinate or incidental to and exclusively devoted to a principal use, building or structure on a Site that does not through any manner or design share the same gross floor area of the principal use or occupy more than the percentage of gross floor area of the Site permitted as an accessory use by the applicable zoning by-laws;
- c) “**Act**” means the Development Charges Act, 1997, S.O., 1997, c.27;
- d) “**agricultural use**” means the use of land and buildings for apiaries, fish farming, animal husbandry or the cultivation of trees, shrubs, flowers, grains, sod, fruits, vegetables and other crops or ornamental plants;
- e) “**apartment**” means any dwelling unit within a building containing more than four dwelling units where the units are connected by an interior corridor. Despite the foregoing, an apartment dwelling includes Stacked Townhouse Dwellings;
- f) “**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;
- g) “**benefitting area**” means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;
- h) “**capital cost**” means costs incurred or proposed to be incurred by the Township or a local board thereof, directly or under an agreement:
- (i) to acquire land or an interest therein, including the capital component of costs to acquire a leasehold interest;

- (ii) to improve land;
 - (iii) to acquire, construct or improve, and the capital component cost to lease, buildings and structures;
 - (iv) to acquire, construct or improve, and the capital component cost to lease, facilities including:
 1. rolling stock with an estimated useful life of seven years or more,
 2. furniture and equipment, other than computer equipment, and
 3. material acquired for circulation, reference or information purposes by a library board as defined in the Public Libraries Act;
 - (v) to undertake studies in connection with and to pay interest on money borrowed to pay for costs of any of the matters referred to in clauses (i) to (iv);
 - (vi) to undertake the development charges background study as required under s.10 of the Act;
- i) **"Council"** means the Council of The Corporation of the Township of Wellesley;
 - j) **"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;
 - k) **"development charge"** means a charge imposed with respect to growth-related net capital costs against land under this By-law;
 - l) **"dwelling unit"** means a room or rooms located within a building or structure which are occupied or designed or intended to be occupied by one person or more persons as a single housekeeping unit and for which a separate private entrance (from outdoors or a common hallway), bathroom and kitchen facilities are provided;
 - m) **"duplex"** means a dwelling or residential building divided horizontally into two dwelling units;
 - n) **"excess capacity"** means uncommitted excess capacity but excludes uncommitted excess capacity if, either before or at the time the excess capacity was created, the Council of the Township expressed a clear intention that the excess capacity would be paid for by development charges or other similar charges;
 - o) **"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, R.S.O. 1990, c. P.13 (the "Planning Act") subsequent to the passing of this By-law for which full development charges were paid, and is used for or in connection with,
 - (i) the production, compounding, processing, packaging, crating, bottling, packing or assembling of raw or semi-processed goods or materials ("manufacturing") or warehousing;

- (ii) research or development in connection with manufacturing;
- (iii) retail sales by a manufacturer, if the retail sales are at the site where the manufacturing is carried out and such retail sales are restricted to goods manufactured at the site; or
- (iv) office or administrative purposes, if they are,
 - 1. carried out with respect to manufacturing or warehousing; and
 - 2. in or attached to the building or structure used for such manufacturing or warehousing;
- p) **"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;
- q) **"front-end payment"** means a payment made by an owner pursuant to a front-ending agreement, which may be in addition to a development charge that the owner is required to pay under this By-law, to cover the net capital costs of the services designated in the agreement that are required to enable the land to be developed;
- r) **"front-ending agreement"** means an agreement made under Section 44 of the Act between the municipality and any or all owners within a benefitting area providing for front-end payments by an owner or owners or for the installation of services by an owner or owners or any combination thereof;
- s) **"grade"** with respect to a Dwelling Unit or Single Detached Dwelling means the average level of finished ground adjoining same at all exterior walls;
- t) **"gross floor area"** means the total floor area of a building or structure or part thereof, measured from the outside faces of exterior walls or between the outside faces of exterior walls and the centre line of any partition walls, and in the case of a Dwelling Unit, includes only those areas above grade. The gross floor area shall include any area which is being used for the repair or for the public sale of vehicles but shall exclude any area which is specifically designed for the parking of passenger motor vehicles;
- u) **"growth-related net capital cost"** means the portion of the net capital cost of services that is reasonably attributable to the need for such net capital cost that results or will result from the anticipated development in all or a defined part of the Township less the Township's excess capacity and the extent to which an increase in service to meet the increased need will benefit existing development within the Township;
- v) **"home occupation"** means a vocational use carried on in conjunction with a Dwelling Unit on the same property as permitted by the applicable Township Zoning By-law;
- w) **"local board"** means a public library board or any other board, commission, committee, 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

Township or the Regional Municipality of Waterloo (the "Region") or any part or parts thereof;

- x) **"local services"** means 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, or as a condition of approval under section 53 of the Planning Act;
- y) **"lodging house"** means a building designed or intended to contain, or containing Lodging Units where the residents share access to common areas of the building, other than the Lodging Units;
- z) **"lodging unit"** means a room located in a lodging house which:
 - (i) is designed to be occupied for human habitation by one resident;
 - (ii) is not normally accessible to persons other than the resident without the permission of the resident; and
 - (iii) may contain either cooking or sanitary facilities, but not both, for the exclusive use of the resident.

A unit or room in a hotel, motel, nursing or retirement home, independent living facility on the same Site as a nursing or retirement home, hospice, rehabilitation facility, student residence where meals and supervision are available, group home, or hostel designed for human habitation shall not constitute a Lodging Unit;

- aa) **"multiple dwelling"** means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings within the respective meanings ascribed hereto under this By-law;
- bb) **"municipality"** means The Corporation of the Township of Wellesley;
- cc) **"net capital cost"** means the capital cost less capital grants, subsidies and other contributions made to the municipality or that Council anticipates will be made, including conveyances or payments under section 43, 51 and 53 of the Planning Act in respect of the capital costs;
- dd) **"non-residential uses"** means all commercial, industrial, institutional and other uses, not included in the definition of residential use;
- ee) **"Official plan"** means the Official Plan of the Wellesley Planning Area and any amendments thereto;
- ff) **"owner"** means the owner of land or a person authorized by the owner who has made application for an approval for the development of land upon which a development charge is imposed;
- gg) **"Planning Act"** means the Planning Act, R.S.O. 1990, c.P.13;
- hh) **"pre-existing development"** means a use of land existing on the land at the time a development charge is payable or existing at the time of passage of this By-law;

- ii) **"rate"** means the interest rate established by the Bank of Canada on the day this By-law comes into force updated on the first business day of every January, April, July and October;
- jj) **"regulation"** means any regulation made pursuant to the Act;
- kk) **"residential building"** means a building containing one or more Dwelling Units with or without any Non-Residential component and in the case of a single or semi-detached dwelling or townhouse dwelling means the individual Dwelling Unit;
- ll) **"residential use"** means the use of land, buildings or structures as one or more Dwelling Units or Lodging Units, including a Farm dwelling;
- mm) **"semi-detached dwelling"** means one dwelling unit within a building containing only two dwelling units, which is divided from the other dwelling unit by a vertical solid wall or partition extending from foundation to roof;
- nn) **"single detached dwelling"** means residential building consisting of one Dwelling unit and not attached to another structure and shall include a modular or mobile home connected to any of water, sanitary or electrical utility service;
- oo) **"site"** means a parcel of land which can be legally conveyed pursuant to section 50 of the Planning Act and includes a development having two or more consolidated under identical ownership;
- pp) **"stacked townhouse"** means a building, other than a duplex, townhouse, or back to back townhouse, containing at least 3 dwelling units; each dwelling unit separated from the other vertically and/or horizontally and each dwelling unit having a separate entrance to grade
- qq) **"townhouse dwelling"** means one Dwelling Unit within a building containing three or more Dwelling Units which is divided from the other Dwelling Units by one or more vertical solid walls or partitions extending from foundation to roof;
- rr) **"warehousing"** means a building in which the main use is the bulk storage of raw or semi-processed goods to be used in manufacturing and/or the wholesale distribution of manufactured goods and materials.

PART I: APPLICATION AND EXEMPTIONS

2. IMPOSITION OF DEVELOPMENT CHARGES

2.1 All lands

Subject to subsection 2.2, the development charges herein are imposed on all lands in the municipality and no lands are exempt by reason only that they are exempt from taxation under s.3 of the Assessment Act.

2.2 This By-law does not apply to land owned by and used for the purposes of:

- a) a board of education as defined by subsection 1(1) of the Education Act, R.S.O. 1990, c.E.2;

- b) the Township of Wellesley or any local board thereof;
- c) the Region or any local board thereof;
- d) any area municipality within the Region; and
- e) the Crown in right of Ontario or the Crown in right of Canada.

3. APPLICATION OF DEVELOPMENT CHARGES

3.1 General Application

Subject to subsection (2) to (7) inclusive, development charges shall apply, and shall be calculated and collected in accordance with the provisions of this By-law, on land to be developed or redeveloped for residential and non-residential use, where:

- a) the development or redevelopment of the land will increase the need for services; and
- b) the development or redevelopment requires one or more of the approvals which follow:
 - (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, R.S.O. 1990, c.C.26; or
 - (vii) the issuing of a permit under the Building Code Act, 1992, S.O. 1992, c.23 (the "Building Code"), in relation to a building or structure.

3.2 Subsection (1) shall not apply in respect of,

- a) local services; or
- b) local connections to water mains, sanitary sewers and storm drainage facilities installed at the expense of the owner including amounts imposed under a By-law passed under section 218 of the Municipal Act, R.S.O. 1990, c.M.45, as amended.

3.3 Where two or more of the actions described in subsection (1) are required before the land to which a development charge applies can be developed or redeveloped, only one development charge shall be imposed, calculated and collected in accordance with the provisions of this By-law.

- 3.4 Despite subsection (3), if two or more of the actions described in subsection (1) occur at different times and if the subsequent action or actions has the effect of increasing the need for services as designated in this By-law, additional development charges shall be imposed, calculated and collected in accordance with the provisions of this By-law.
- 3.5 Despite subsection (1) any subdivision agreement or development agreement made under section 51 or section 53 of the Planning Act or any predecessor thereof, which provides for the payment of a lot levy, development charge, capital contribution or other charge shall remain in full force and effect, be enforceable according to its terms and prevail to the extent that there is any conflict with this By-law. This subsection, however, shall not apply with respect to any lot or block which is further subdivided by a new plan of subdivision or consent or by a part lot control exemption By-law.
- 3.6 Subsection (1) shall not apply to:
- a) a temporary use permitted under a zoning By-law enacted under section 39 of the Planning Act;
 - b) an accessory use;
 - c) a home occupation;
 - d) an agricultural use;
 - e) temporary erection of a building without foundation as defined in the Building Code for a period not exceeding six consecutive months and not more than six months in any one calendar year on a site for which development charges or lot levies have previously been paid;
 - f) the Development of land that constitutes, in accordance with the Regulation only:
 - (i) the enlargement of an existing dwelling unit;
 - (ii) the creation of the first two additional dwelling units in a Single Detached dwelling unit;
 - (iii) the creation of the first additional dwelling unit in a Semi-Detached, Multiple (or row) or Apartment building;
4. Development charges as set out in Parts II and III of this By-law shall apply to all lands that are developed or redeveloped for residential and non-residential use in accordance with this By-law, but only insofar as,
- a) the growth-related net capital costs of services are attributable to residential and non-residential use, and
 - b) the growth-related net capital cost of each service is attributable to the anticipated development and at standards no higher than the average level of each such service provided by the Township over the ten-year period immediately preceding the preparation of the Study.

5. The rates set out in **Schedule "B"** attached hereto shall be determined so as to reflect a ten per cent (10%) reduction to the growth-related net capital costs, except that there shall be no percentage reduction for the following growth-related net capital costs:
 - a) water supply services, including distribution and treatment services;
 - b) wastewater services, including sewers and treatment services;
 - c) storm water drainage and control services;
 - d) services related to a highway as defined in subsection 1(1) of the Municipal Act;
 - e) electrical power services;
 - f) policing services, and
 - g) fire protection services.

PART II: RESIDENTIAL DEVELOPMENT CHARGES

6. Development charges against land to be developed or redeveloped for residential use shall be based upon the services to be provided by the Township which are designated in **Schedule "A"** attached hereto.
7.
 - a) Subject to the provisions of this By-law, development charges are hereby imposed against land to be developed or redeveloped for residential use and shall be calculated and collected at the rates set out in **Schedule "B"** attached hereto.
 - b) Subject to the provisions of this By-law, development charges against land to be developed or redeveloped for mixed residential use shall be the aggregate of the amount applicable for each dwelling unit according to its type as set forth in **Schedule "B"** attached hereto.

PART III: NON-RESIDENTIAL DEVELOPMENT CHARGES

8. Development charges against land to be developed or redeveloped for non-residential use shall be based upon the services to be provided by the Township which are designated in **Schedule "A"** attached hereto.
9. Subject to the provisions of this By-law, development charges are hereby imposed against land to be developed or redeveloped for non-residential use and shall be calculated and collected at the rate set out in **Schedule "B"** attached hereto.
10.
 - a) Despite anything in this By-law, there shall be an exemption from the payment of development charges for one or more enlargements of an existing industrial building up to a maximum of fifty per cent (50%) of the gross floor area of an enlargement that results in the gross floor area of the industrial building being increased by greater than fifty per cent (50%) of the gross floor area of the existing industrial building.
 - b) For the purpose of this section, despite any new sites created which result in an existing industrial building being on a site separate from its enlargement or enlargements for which an exemption was granted under this section, further exemptions if any, pertaining to the existing industrial building shall be calculated on the basis of the gross floor area of the existing industrial building prior to the first enlargement and the site prior to its division in accordance with subsection 10.a).

Mixed Use

11. Subject to the provisions of this By-law, development charges against land to be developed or redeveloped for mixed residential and non-residential use shall be the aggregate of the amount applicable to the residential component and the amount applicable to the gross floor area of the non-residential component.

PART IV: ADMINISTRATION

Payment

12. All development charges required to be paid to the Township pursuant to this By-law shall be paid by cash or cheque and directed to the Township's Chief Building Official.

Calculations

- 13.1 Subject to the provisions of this part, development charges shall be calculated and payable in full on the date that a building permit is issued in relation to a building or structure on land to which a development charge applies.
- 13.2 Where development charges apply to land where a building permit is required, no building permit shall be issued until the development charge is paid in full.
14. If a development of land does not require the issuing of a building permit and requires one of the approvals listed in subsection 3.1b)(i) to (vi) inclusive, the development charge, subject to subsection 3.1a) shall be payable and shall be calculated and collected on such date as may be determined by the approving authority.

Credits

- 15.1 The Township may, by agreement, permit the owner of land to which development charges apply to provide services for development or redevelopment of that land in lieu of the payment of all or any portion of a development charge, including services additional to or of a greater size or capacity than is required under this By-law ("services in lieu").
- 15.2 Upon proof of the installation or construction of services in lieu to the satisfaction of the Township's Manager of Community Services, a credit, without interest, shall be applied against development charges payable for an amount equal to the reasonable cost to the owner for providing services in lieu, as determined by the Township's Manager of Community Services, not to exceed the total amount of the development charges otherwise payable.
- 15.3 Any unused credit may be applied, upon proof satisfactory to the Township's Chief Building Official, to any subsequent development charge payable with respect to the same land as referred to in subsection 15.1.

Redevelopment Allowances

- 16.1 Where there is a redevelopment, conversion, demolition, or change of use of a building or structure or part thereof, the Development Charges payable by the new or proposed development shall be credited by the amount to which the previous use of the building or structure was subject to Development Charges at the time this By-law was passed

- 16.2 With respect to a residential building or structure or the residential portion of a mixed-use building or structure that has been demolished or converted, the credit shall be calculated by multiplying the number of dwelling units demolished or converted within five years of the date of building permit application by the Development Charge for the relevant demolished units in accordance with **Schedule "B"** of this By-law.
- 16.3 With respect to a non-residential building or structure or the non-residential portion of a mixed-use building or structure that has been demolished or converted, the credit shall be calculated by multiplying the Gross Floor Area of that portion of the building demolished or converted within five years of the date of building permit application by the Development Charge for the relevant demolished units in accordance with **Schedule "B"** of this By-law.
- 16.4 The credit with respect to a redevelopment, conversion, demolition, or change of use of a building or structure or part thereof shall not exceed the amount of the Development Charges payable with respect to new or proposed development.
- 16.5 No credit shall be given with respect to the redevelopment, conversions, demolition, or change of use of a building or structure or part thereof where the existing building or structure or part thereof would have been exempt from Development Charges in accordance with this By-law.

Reserve Funds

- 17.1 Monies received from payment of development charges shall be maintained in a separate reserve fund or funds, and shall be used only to meet growth-related net capital costs for which the development charge was imposed under this By-law.
- 17.2 Income received from investments of the development charge reserve fund or funds shall be credited to the development charge reserve fund or funds in relation to which the investment income applies.
- 17.3 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.
- 17.4 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.

PART V: GENERAL

18. This By-law shall be administered by the Township's Manager of Community Services, Clerk and Chief Building Official.

Annual Adjustment

19. The development charges set out in sections 7, 9 and **Schedule "B"** attached hereto shall be adjusted annually without amendment to this By-law, as of the 1st day of December in each year, commencing on December 1, 2020, in accordance with the most recent Statistics Canada Quarterly, Construction Price Index.
20. The minimum interest rate that the Township shall pay under subsection 18(3) and 25(2) of the Development Charges Act in relation to a development charges By-law shall be the Bank of Canada interest rate on the day the By-law comes into force and thereafter as

such rate is adjusted on the first business day of every January, April, July and October thereafter for the life of this By-law.

Term

- 21.1 This By-law shall come into force and effect on the 1st day of January 2020.
- 21.2 This By-law shall continue in force and effect for a term not to exceed five years from the date of its enactment unless it is repealed or replaced at an earlier date by a subsequent By-law.
- 22. Nothing in this By-law shall be construed so as to commit or require the Township or its Council to authorize or proceed with any specific capital project at any specific time.
- 23. Each and every provision of this By-law is severable and, if any provision or provisions of this By-law should, for any reason, be declared invalid by any court, it is the intention of Council that each and every of the then remaining provisions of this By-law shall remain in full force and effect.
- 24. This By-law may be cited as the "Township of Wellesley Development Charges By-law, 2019".

READ A FIRST AND SECOND this 3rd day of December 2019

Mayor Joe Nowak

Clerk, Grace Kosch

READ A THIRD AND FINAL TIME AND PASSED this 3rd day of December 2019

Mayor Joe Nowak

Clerk, Grace Kosch

THE CORPORATION OF THE TOWNSHIP OF

WELLESLEY BY-LAW NO. 55/2019

SCHEDULE "A"

Services

1. Roads and Related;
2. Fire Protection;
3. Parks and Recreation; and
4. Administration.

THE CORPORATION OF THE TOWNSHIP OF

WELLESLEY BY-LAW NO. 55/2019

SCHEDULE "B"

SCHEDULE OF DEVELOPMENT CHARGES

Service	RESIDENTIAL				NON-RESIDENTIAL
	Single and Semi-Detached Dwelling	Rows and Other Multiples	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	(per sq.m. of Gross Floor Area)
Municipal Wide Services:					
Roads and Related	3,777	2,766	2,418	1,496	23.77
Fire Protection Services	422	309	270	167	2.68
Parks and Recreation Services	4,586	3,358	2,936	1,815	3.26
Administration	405	297	259	160	2.57
Total Municipal Wide Services	9,190	6,730	5,883	3,639	32.28