

THE CORPORATION OF TAY VALLEY TOWNSHIP

BY-LAW NO. 2019-045

DEVELOPMENT CHARGES

WHEREAS, Section 2 (1) of the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended, provides that the Council of a municipality may by by-law 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 WHEREAS, a development charges background study has been completed as per Section 10 of the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended;

AND WHEREAS, a public meeting was held on November 12th, 2019 as per Section 12 of the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended;

NOW THEREFORE BE IT RESOLVED THAT, the Council of the Corporation of Tay Valley Township enacts as follows:

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**THE CORPORATION OF TAY VALLEY TOWNSHIP
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**PART 1
DEFINITIONS**

2.0 DEFINITIONS

For the purposes of this By-law, the following definitions shall apply:

- 2.1. **Accessory** – means when used to describe a use, building or structure, that the use, building or structure is naturally or normally incidental, subordinate and exclusively devoted to a main use, building or structure located on the same lot therewith.
- 2.2. **Act** – means the *Development Charges Act, 1997*, as amended.
- 2.3. **Apartment** – means a dwelling unit located in any one of the following types of dwellings:
- 2.3.1. **“Dwelling, Apartment”** – means the whole of a building not otherwise defined herein, which contains four (4) more dwelling units serviced by a common entrance or by an independent entrance directly from the outside in which the occupants have the right to use in common any corridors, stairs or elevators contained therein, and the yards appurtenant thereto.
- 2.3.2. **“Dwelling, Accessory”** – means a dwelling unit accessory to a permitted non-residential use, but shall not include an accessory attached dwelling unit or an accessory single detached dwelling unit as otherwise defined in this By-law.
- 2.4. **Building** – means a structure having a roof supported by columns or walls or directly on the foundation and used for the shelter and accommodation of persons, animals or goods and without limiting the foregoing, includes buildings as defined in the *Building Code Act*.
- 2.5. **Capital Cost** – means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or under an agreement:
- (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 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*.
 - (e) to undertake studies in connection with any of the matters in clauses (a) to (d),
 - (f) to prepare a development charges background study, and
 - (g) for interest on money borrowed to pay for costs described in clauses (a) to (d) above.
- 2.6. **Commercial Use** – means any use permitted in a commercial zone other than a residential use as described by the zoning by-law of the municipality and any amendments thereto.
- 2.7. **Condominium Act** – means the *Condominium Act, 1998*, S.O. 1998, c.19, as amended.
- 2.8. **Council** – means the Council of the Corporation of Tay Valley Township.
- 2.9. **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 change of use thereof, and includes redevelopment.
- 2.10. **Development Charge** – means a charge imposed against the 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.
- 2.11. **Dwelling Unit** – shall mean one or more rooms in a building used or designed and intended to be used as a single, independent, and separate house-keeping establishment in which food preparation and sanitary facilities are provided and which has a private entrance from outside the building or from a common hallway or stairway inside the building.
- 2.12. **Dwelling Unit Attached** – means a dwelling unit located in any one of the following types of dwellings:
- (a) **“Dwelling, Duplex”** – means a building that is divided horizontally into two separate dwelling units, each of which has an independent entrance either directly from outside or through a common vestibule; or
 - (b) **“Dwelling Maisonette”** – means a building that is divided vertically into five or more dwelling units, each of which has independent entrances, one to a common corridor and the other directly to an outside yard area adjacent to the said dwelling unit; or

- (c) **“Dwelling, Row House”** – means a building that is divided vertically into three or more dwelling units, each of which has a separate and independent entrance at finished grade and separated from the adjoining unit or units by a common unpierced wall with no interior access between each dwelling unit. Townhouse shall have a corresponding meaning; or
 - (d) **“Dwelling, Semi-Detached”** – means a building that is divided vertically into two separate dwelling units, each of which has an independent entrance either directly from outside or through a common vestibule; or
 - (e) **“Dwelling, Triplex”** – means a building that is divided horizontally into three separate dwelling units, each of which has an independent entrance either directly from outside or through a common vestibule.
- 2.13. **Existing** – means existing as of the date of the passing of this By-Law.
- 2.14. **Grade** – means the average level of proposed or finished ground adjoining a building at all exterior walls.
- 2.15. **Green Energy** – means the development of solar PV or wind turbine facilities for the purposes of electrical energy generation.
- 2.16. **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 any party wall that separates one occupancy from another.
- 2.17. **Industrial Building** – means a building used for or in connection with:
- (a) manufacturing, producing, processing, storing or distributing something;
 - (b) research or development in connection with manufacturing, producing or processing something;
 - (c) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed if the retail sales are at the site where the manufacturing, production or processing takes place;
 - (d) office or administrative purposes, if they are:
 - (i) carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - (ii) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution.

- 2.18. **Industrial Use** – means the use of land, buildings or structures for the purpose of manufacturing, assembling, making, preparing, inspecting, ornamenting, finishing, treating, altering, repairing, warehousing, or storage or adapting for sale of any goods, substances, article or thing, or any part thereof and the storage of building and construction equipment and materials as distinguished from the buying and selling of commodities and the supplying of personal services or as otherwise defined in the zoning by-law.
- 2.19. **Institutional Use** – means a use of land, building or structure for social purposes but not for commercial or industrial purposes as defined in this By-Law and may include religious, charitable, fraternal, philanthropic or other similar uses.
- 2.20. **Local Board** – means a local board as defined in the *Municipal Affairs Act*, other than a board defined in subsection 1 (1) of the *Education Act*.
- 2.21. **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 or tent trailer or trailer otherwise designed.
- 2.22. **Municipality** – shall mean the Corporation of Tay Valley Township;
- 2.23. **Net Capital Cost** – means the capital cost less capital grants, subsidies and other contributions made to the municipality or that the Council of the municipality anticipates will be made, including conveyances or payments under Sections 41, 51 and 53 of the *Planning Act*, as amended in respect of the capital cost.
- 2.24. **Non-Residential Uses** – means uses of land, buildings or structures for purposes other than a dwelling unit and shall include commercial, institutional, industrial, agricultural uses, parks and open spaces, and other such uses.
- 2.25. **Owner or Owners** – means the most recent owner of land or a person who has made application for approval for the development of land upon which a development charge is imposed.
- 2.26. **Planning Act** – means the *Planning Act, 1990*, R.S.O. c.P.13, as amended.
- 2.27. **Residential Uses** – means uses of land, buildings or structures designed or intended to be used as living accommodations for any length of time for one or more individuals.
- 2.28. **Services** – means municipal services designated in this By-Law or in an agreement made under Section 44 of the Act, as applicable.
- 2.29. **Single Detached Dwelling** – means a residential building consisting of one (1) dwelling unit and not attached to another structure, excluding a mobile home.

- 2.30. **Solar PV** – means electricity generation by a group of photovoltaic cells, typically arranged on a panel, which convert solar energy into electrical energy.
- 2.31. **Standard of Services** – means those standards which govern the quantity, quality or form, method, delivery, operation or manner in which services are constructed or installed and which have been duly approved by Council and which comply with Section 5 (1) (4) of the *Development Charges Act, 1997*.
- 2.32. **Structure** – means anything constructed or erected, either permanent or temporary, the use of which requires location on the ground or attachment to something having location on the ground.
- 2.33. **Wind Turbine** – means a rotary engine that extracts energy from the flow of wind, converts it to mechanical energy by causing a bladed rota to rate, and further converts it to electrical energy through an electrical generator.

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**PART 2
APPLICATION**

3.0 DESIGNATED AREAS

- 3.1. The designated area within which development charges are imposed by this by-law are all lands, buildings and structures within the geographic limits of Tay Valley Township.

4.0 DESIGNATED SERVICES

- 4.1. The municipal services for which development charges shall be imposed are as set out in Schedule "A" attached to and forming part of this By-Law.

5.0 DESIGNATED USES

- 5.1. The uses of land, buildings or structures for which development charges are hereby imposed are as follows, and are also as set out in Schedule "B" attached to and forming part of this By-Law:

- 5.1.1. Residential uses as defined in Section 2.27 of this By-Law.
- 5.1.2. Non-Residential uses as defined in Section 2.24 of this By-Law.
- 5.1.3. Green Energy uses as defined in Section 2.15 of this By-Law.

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**PART 3
DEVELOPMENT CHARGES**

6.0 DEVELOPMENT CHARGES

- 6.1. The development charges established by this By-Law shall be imposed where the development of land for residential, institutional or green energy uses would increase the need for services and the development requires one or more of the following:
- (a) the passing of a zoning by-law or of 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 Section 50 (7) of the *Planning Act*;
 - (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*;
 - (g) the issuing of a permit under the *Building Code Act*, in relation to a building or structure.
- 6.1.1. Where two or more of the actions described in Subsection 6.1 (a) to (g) are required in order to develop land, only one development charge shall be calculated and collected in accordance with the provisions of this By-Law.
- 6.1.2. Notwithstanding Subsection 6.1.1, if two or more of the actions described in Subsection 6.1 (a) to (g) occur at different times, and if the subsequent action has the effect of increasing the need for all or some of the services designated in Schedule "A", an additional development charge shall be calculated and collected in accordance with the provisions of this By-Law.

6.2. Residential Uses

The development charges in respect of net capital costs for services for residential uses shall be as set out in Schedule "B", attached to and forming part of this By-Law except that no charge shall apply as set out in Section 14 of this By-Law titled Exemptions.

6.3. Non-Residential Uses

The development charges in respect of net capital costs for services for residential uses shall be as set out in Schedule "B", attached to and forming part of this By-Law except that no charge shall apply as set out in Section 14 of this By-Law titled Exemptions.

6.4. Green Energy Uses

The development charges in respect of net capital costs for services for green energy uses shall be as set out in Schedule "B", attached to and forming part of this By-Law except that no charge shall apply as set out in Section 14 of this By-Law titled Exemptions.

The development charge for a green energy development shall be calculated based on the total generating capacity of the solar PV or wind turbine installation. The development charge for green energy developments with net generating capacities not equal to 500 kW shall be calculated on a prorated basis.

7.0 CUMULATIVE CHARGES

- 7.1. The development charges shall be cumulative by adding together the calculated development charge for each of the applicable services to be used together with any interest charges, as set out in Schedule "B".
- 7.2. For multiple use buildings, the development charge shall be the cumulative total of the applicable charges for each respective land use within the building.

8.0 REDEVELOPMENT

- 8.1. Where residential space is being converted to non-residential space, the development charge equivalent that would have been payable on the residential space shall be deducted from the charge calculated on the non-residential space being added.
- 8.2. Where non-residential space is being converted to residential space, the development charge equivalent that would have been payable on the non-residential space shall be deducted from the charge calculated on the residential units being added.

- 8.3. An owner who has obtained a demolition permit and demolished existing dwelling units or a non-residential building or structure in accordance with the provisions of the *Building Code Act* shall not be subject to the Development Charge with respect to the development being replaced, provided that the building permit for the replacement residential units or non-residential building or structure is issued not more than two (2) years after the date of issuance of the demolition permit and provided that any dwelling units or non-residential gross floor area created in excess of what was demolished shall be subject to the development charge imposed under Section 2.
- 8.4. No redevelopment credit shall be made in excess of the development charge payable for a redevelopment.

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**PART 4
ADMINISTRATION**

9.0 WHEN DEVELOPMENT CHARGE PAYMENT IS DUE

9.1. Payment of Development Charge

9.1.1. 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, on the date that a building permit is issued in relation to a building or structure on land to which a development charge applies.

9.1.2. 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.

9.1.3. Notwithstanding Subsections 9.1.1 and 9.1.2, an owner may enter into an agreement with the municipality to provide for the payment in full of one or more development charges before a building permit is issued or later than the issuing of a building permit.

9.2. Collection of Unpaid Development Charges

If the development charge or any part thereof imposed by the municipality remains unpaid after the due date, the amount unpaid shall be added to the tax roll as taxes as per Section 32 of the Act.

9.3. Complaints about Development Charges

An owner may complain in writing to the Council of the municipality in respect of the development charge imposed by the municipality on the owner's development subject to the provisions of Section 20 of the Act.

10.0 INDEXING

10.1. The development charges referred to in Schedule "B" shall be adjusted annually, without amendment to this by-law, on January 1st of each year, in accordance with Statistics Canada *Table 18-10-0135-01 Building construction price indexes, by type of building*.

11.0 RESERVE FUND

- 11.1. A reserve fund for revenues received from development charges is hereby established and shall be called the development charges reserve fund.
- 11.2. The development charges reserve fund shall be used to meet the net capital costs for which the development charge was levied under this By-Law.
- 11.3. The Treasurer of the municipality shall maintain separate accounts under the development charges reserve fund including interest earned thereof for each municipal service category set out in Section 4.1 of this By-Law.
- 11.4. Income received from investments of the development charge reserve fund shall be credited to the development charges reserve fund account for the designated municipal service category (per Section 4.1 of this By-Law) in relation to which the investment income applies.

12.0 REPORTING

- 12.1. The Treasurer shall prepare an annual financial statement for the development charges fund, as prescribed under Section 12 of *Ontario Regulation 82/98* and to submit the statement for Council's consideration and within 60 days thereafter, to submit such statement to the Minister of Municipal Affairs and Housing.

13.0 REFUNDS FOR BY-LAW AMENDMENT OR APPEAL

- 13.1. The municipality shall pay interest on a refund as per the provisions of the *Act* at a rate not less than the Bank of Canada rate in effect on the date this Development Charges By-Law comes into force and adjusted on the first business day of July 2020 and then four times per year thereafter on the first business day of July, October, January and April.

14.0 EXEMPTIONS

- 14.1. Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to land that is owned by and used for purposes of:
 - (a) Tay Valley Township, or any local board thereof;
 - (b) a board of education as defined in subsection 1(1) of the *Education Act*; and
 - (c) the Corporation of the County of Lanark, or any local board thereof.

- 14.2. Section 5 of this by-law shall not apply to that category of exempt development described in s.s. 2(3) of the Act, namely:
- (a) the enlargement of an existing dwelling unit;
 - (b) the creation of one or two additional dwelling units in an existing single-detached dwelling, provided the total gross floor area of the additional one or two units does not exceed the gross floor area of the existing dwelling unit; or
 - (c) the creation of one additional dwelling unit in any other type of existing residential building, provided that:
 - (i) in the case of a semi-detached dwelling, the gross floor area of the additional dwelling unit does not exceed the gross floor area of the existing dwelling unit already contained in the residential dwelling, and
 - (ii) in the case of all other types of existing residential buildings, the gross floor area of the additional dwelling unit does not exceed the gross floor area of the smallest existing dwelling unit already contained in the residential building.
- 14.3. Section 5 of this by-law shall not apply to that category of exempt development described in s.4 of the Act, and s.1 of *Ontario Regulation 82/98*, namely:
- (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;
 - (b) for the purpose of (a), the terms “gross floor area” and “existing industrial building” shall have the same meaning as those terms have in *Ontario Regulation 82/98* under the Act; and
 - (c) notwithstanding subsection (a), if the gross floor area is enlarged by more than 50 per cent, development charges shall be payable and collected and the amount payable shall be calculated in accordance with s.4(3) of the Act.
- 14.4. Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to:
- (a) green energy development with a rated generating capacity of 100 kW or less.

15.0 OTHER BY-LAWS AND REGULATIONS

- 15.1. Nothing in this By-Law shall exempt any person from complying with the requirements of any other By-Law, agreement or legislation in force.
- 15.2. If an owner or former owner has, before the coming into force of this development charges by-law, paid all or any portion of a charge related to development pursuant to an agreement under section 51 or 53 of the *Planning Act* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for the amount of the charge paid.
- 15.3. If an owner or former owner has, before the coming into force of this development charges by-law, provided services in lieu of the payment of all or any portion of a charge related to development pursuant to an agreement under section 51 or 53 of the *Planning Act* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for an amount equal to the reasonable cost to the owner or to the former owner of providing the services.
- 15.4. Under this By-Law, the municipality may give a credit for work done against all or a portion of one or more services for which a development charge may be imposed and may allow the credit to be applied to a different service either at the time of entering into an agreement or afterwards, provided that the municipality has first agreed to allow a person to perform such work. However, no credit shall be given for any work that relates to an increase in the level of service that exceeds the ten (10) year average level of service as adopted by the municipality.
- 15.5. Any credit may only be used by the holder of the credit or the holder's agent and may not be transferred unless the holder and person to whom it is to be transferred have agreed in writing, and the municipality also agrees to the transfer and undertakes to transfer the paid credit or credits.
- 15.6. If a conflict exists between the provisions of this development charges by-law and an agreement referred to in Section 15.2 or 15.3, the provisions of the agreement prevail to the extent of the conflict.
- 15.7. If a conflict exists between the provisions of this development charges by-law and any other agreement between the municipality and an owner or former owner with respect to land within the area to which the by-law applies, the provisions of the agreement prevail to the extent that there is a conflict.

16.0 STANDARD OF SERVICES

16.1. The standards for services within the Corporation of Tay Valley Township shall be those as set out from time-to-time by Council and shall be the ten (10) year average level of service for any eligible service under the Act.

17.0 BY-LAW REGISTRATION

17.1. A certified copy of this By-Law may be registered on title to any land to which this By-Law applies and may be done at the sole discretion of the municipality.

18.0 SCHEDULES TO THE BY-LAW

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

Schedule "A" – Designated Municipal Services Under this By-law

Schedule "B" – Schedule of Development Charges

19.0 ULTRA VIRES

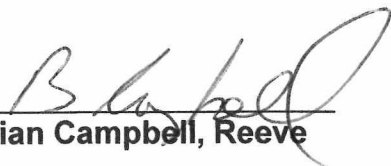
Should any sections of this by-law, including any section or part of any schedules attached hereto, be declared by a court of competent jurisdiction to be ultra vires, the remaining sections shall nevertheless remain valid and binding.

20.0 BY-LAWS TO BE REPEALED

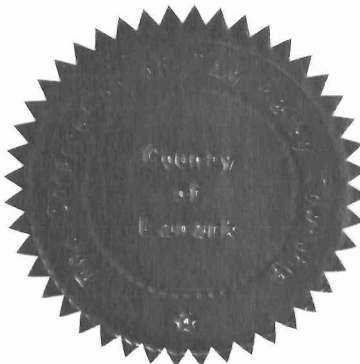
THAT, By-Law No. 2014-052 and all previous By-Laws passed under the Act or its predecessor with respect to development charges are hereby repealed.

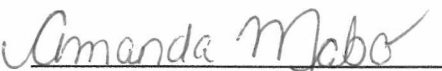
21.0 EFFECTIVE DATE

ENACTED AND PASSED this 2nd day of December, 2019 for a term of five (5) years.



Brian Campbell, Reeve





Amanda Mabo, Clerk

**THE CORPORATION OF TAY VALLEY TOWNSHIP
BY-LAW NO. 2019-045**

**SCHEDULE "A"
Designated Municipal Services Under this By-law**

Municipal-Wide Services

1. Roads & Related
2. Fire Protection
3. Parks & Recreation
4. Library
5. Waste Diversion
6. Administration – Studies

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**SCHEDULE "B"
Schedule of Development Charges**

Service	RESIDENTIAL				NON-RESIDENTIAL	GREEN ENERGY
	Single and Semi-Detached Dwelling	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Other Multiples	(per sq.ft. of Gross Floor Area)	(per 500 kW generating capacity)
Municipal Wide Services:						
Roads & Related	\$ 2,165	\$ 1,377	\$ 1,299	\$ 1,737	\$ 1.06	\$ 2,165
Fire Protection	\$ 460	\$ 293	\$ 276	\$ 369	\$ 0.22	\$ 460
Parks & Recreation	\$ 680	\$ 433	\$ 408	\$ 546	\$ 0.20	\$ -
Library	\$ 55	\$ 35	\$ 33	\$ 44	\$ 0.02	\$ -
Waste Diversion	\$ 30	\$ 19	\$ 18	\$ 24	\$ 0.01	\$ -
Administration - Studies	\$ 213	\$ 135	\$ 128	\$ 171	\$ 0.10	\$ 213
Total Municipal Wide Services	\$ 3,603	\$ 2,292	\$ 2,162	\$ 2,891	\$ 1.61	\$ 2,838