



The Corporation of the Township of Hamilton

By-law Number 2019 - 66

**BEING A BY-LAW OF THE CORPORATION OF THE TOWNSHIP OF HAMILTON
WITH RESPECT TO
DEVELOPMENT CHARGES**

WHEREAS Section 2(1) of the Development Charges Act, 1997, S.O. 1997, c. 27 (hereinafter called the Act) enables the Council of a municipality to pass by-laws for the imposition of development charges against land located in the municipality where the development of the land would increase the need for municipal services as designated in the by-law and the development requires one or more of the actions set out in Subsection 2(2) of the Act;

AND WHEREAS the Council of the Corporation of the Township of Hamilton 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 September 24, 2019;

AND WHEREAS the Council, at its meeting of September 24, 2019, approved a report dated May 3, 2019 entitled Township of Hamilton Development Charges Background Study, as amended;

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 such public meeting and provided a subsequent period for written communications to be made;

AND WHEREAS the Council, in adopting the Township of Hamilton Development Charges Background Study on May 3, 2019, as amended, directed that development charges be imposed on land under development or redevelopment within the geographical limits of the municipality as hereinafter provided.

NOW THEREFORE the Council enacts as follows:

1. In this By-law:

DEFINITIONS

- (1) "Act" means the Development Charges Act, 1997, S.O. 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 of floor area or both, and exclusively devoted to a principal use, building or structure;
- (3) "agricultural use" means a bona fide farming operation;
- (4) "apartment unit" means any residential dwelling unit within a building containing more than two dwelling units where the residential units are connected by an interior corridor;

- (5) "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;
- (6) "benefiting 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;
- (7) "capital costs" 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,
 - (b) to improve land,
 - (c) to acquire, construct or improve buildings and structures,
 - (d) to acquire, construct or improve facilities including:
 - (i) rolling stock, furniture and equipment with an estimated useful life of seven years or more,
 - (ii) materials acquired for circulation, reference or information purposes by a library board as defined in the Public Libraries Act, 1984, S.O. 1984, c. 57,
 - (iii) furniture and equipment, other than computer equipment,
 - (e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d), required for the provision of services designated in this by-law within or outside the municipality, including interest on borrowing for those expenditures under clauses (a), (b), (c) and (d) that are growth-related;
- (8) "commercial use" means the use of land, structure or building for the purpose of buying and selling of commodities and supplying of services as distinguished from manufacturing or assembling of goods, also as distinguished from other purposes such as warehousing and/or an open storage yard;
- (9) "council" means the Council of the municipality;
- (10) "demolition" means a demolition is deemed to have occurred on the date of issuance of a demolition permit, or in the case of accidental or natural destruction of the structure from the lands, the date of such occurrence;
- (11) "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;
- (12) "development charge" means a charge imposed with respect to growth-related net capital costs against land in the municipality under this by-law;

(13) "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 culinary and sanitary facilities for their exclusive use;

(14) "existing 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;
- (e) where the building is existing as of the date of its first building permit issued.

(15) "farm building" means that part of a bona fide farm operation encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use;

(16) "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;

(17) "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 for the installation of services by an owner or owners or any combination thereof;

(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;

i) In the case of a commercial, industrial and/or institutional building or structure, or in the case of a mixed-use building or structure in respect of the commercial, industrial and/or institutional 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 commercial, industrial and/or institutional use and a residential use.

(20) "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;

(21) "Planning Act" means the Planning Act, 1990, as amended;

(22) "rate" means the interest rate established weekly by the Bank of Canada for treasury bills having a term of 30 days;

(23) "regulation" means any regulation made pursuant to the Act;

(24) "residential use" means land or buildings or structure of any kind whatsoever used, designed or intended to be used as living accommodations for one or more individuals;

(25) "semi-detached dwelling", "duplex" or "row housing" means a dwelling unit in a residential building consisting of two (or more in the case of row housing) 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;

(26) "services" (or "service") means those services designated in Schedule "A" to this by-law or specified in an agreement made under Section 44 of the Act;

(27) "services in lieu" means those services specified in an agreement made under Section 8 of this by-law;

(28) "service standards" means the prescribed level of services on which the schedule of charges in Schedule "B" are based;

(29) "servicing agreement" means an agreement between a landowner and the municipality relative to the provision of municipal services to specified lands within the municipality;

(30) "single detached dwelling unit" means a residential building consisting of one dwelling unit and not attached to another structure;

(31) "solar PV" means any solar energy system comprised of one or more solar panels and associated control or conversion electronics that converts sunlight into electricity. A solar PV installation may be connected to the electricity grid in circuits at a substation to provide electricity off-site for sale to an electrical utility or other intermediary;

(32) "telecommunications tower" means any tower, apparatus, structure or other thing that is used or is capable of being used for telecommunications or for any operation directly connected with telecommunications, and includes a transmission facility as defined in the Telecommunications Act;

(33) "wind turbine" means any wind energy system, comprising one or more turbines, that converts energy into electricity, with a combined nameplate generating capacity greater than 100 kilowatts and consists of a wind turbine, a tower and associated control or conversion electronics. A wind turbine energy system may be connected to the electricity grid in circuits at a substation to provide electricity off-site for sale to an electrical utility or other intermediary.

SCHEDULE OF DEVELOPMENT CHARGES

2. (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-1" and "B-2", which relate to the services set out in Schedule "A".

(2) 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;

(b) in the case of commercial and/or industrial, or the commercial and/or industrial portion of a mixed-use development, based upon the gross floor area of such development.

(3) Council hereby determine that the development of land, buildings or structures for residential and commercial and/or industrial uses will require the provision, enlargement, expansion or improvement of the services referenced in Schedules "B-1" and "B-2".

APPLICABLE LANDS

3. (1) Subject to Subsections (2), (3), (4) and (5), this by-law applies to all lands in the Township of Hamilton whether or not the land or use is exempt from taxation under Section 3 of the Assessment Act, R.S.O. 1980, c.31.

(2) This by-law shall not apply to land that is owned by and use for the purposes of:

(a) a board of education;

(b) any municipality or local board thereof;

(c) a farm building;

(d) a place of worship and land used in connection therewith, and a churchyard, cemetery and burial ground exempt from taxation under Section 3 of the Assessment Act, R.S.O. 1980, c.31;

(e) a solar PV Installations with a nameplate generation capacity of less than 100 kW shall be exempt from this by-law;

(f) Wind Turbines with a nameplate generation capacity of less than 100 kW shall be exempt from this by-law; and

(g) Telecommunication Towers of less than 30 metres in height shall be exempt from this by-law.

(3) This by-law shall not apply to that category of exempt development described in Subsection 2(3)(b) of the Development Charges Act, 1997, c.27 and Section 2 of O.Reg. 82/98, namely:

NAME OF CLASS OF RESIDENTIAL BUILDING	DESCRIPTION OF CLASS OF RESIDENTIAL BUILDINGS	MAXIMUM NUMBER OF ADDITIONAL DWELLING UNITS	RESTRICTIONS
Single detached dwellings	Residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings.	Two	The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building.
Semi-detached dwellings or row dwellings	Residential buildings, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building.
Other residential buildings	A residential building not in another class of residential building described in this table.	One	the gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building.

(4) (a) If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable in respect of the enlargement is determined in accordance with this section.

(b) If the gross floor area is enlarged by 50 percent or less, the amount of the development charge in respect of the enlargement is zero.

(c) If the gross floor area is enlarged by more than 50 percent, the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:

(i) Determine the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement.

(ii) Divide the amount determined under paragraph 1 by the amount of the enlargement.

(d) where the building is existing as of the date of its first building permit issued.

(5) That where a conflict exists between the provisions of the new by-law and any other agreement between the Township and the owner, with respect to land to be charged under this policy, the provisions of such agreement prevail to the extent of the conflict.

(6) This by-law is not applicable to development for which a complete application for building permit has been submitted 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 commercial, industrial and/or institutional use, where:

(a) the development of that land will increase the need for services, and

(b) the development requires:

(i) the passing of a zoning by-law or an amendment thereto under Section 34 of the Planning Act, 1990;

(ii) the approval of a minor variance under Section 45 of the Planning Act, 1990;

(iii) a conveyance of land to which a by-law passed under Subsection 50(7) of the Planning Act, 1990;

(iv) the approval of a plan of subdivision under Section 51 of the Planning Act, 1990;

(v) a consent under Section 53 of the Planning Act, 1990;

(vi) the approval of a description under Section 51 of the Condominium Act, R.S.O. 1980, c.84; or

(vii) the issuing of a permit under the Building Code Act, R.S.O. 1992 in relation to a building or structure.

(2) Subsection (1) shall not apply in respect of:

(a) local services installed at the expense of the owner within a plan of subdivision as a condition of approval under Section 52 of the Planning Act, 1990;

(b) local services installed at the expense of the owner as a condition of approval under Section 53 of the Planning Act, 1990.

(3) The charge for solar PV installations and wind turbines will be based on the total generating capacity of the solar PV or wind turbine installation, per 500 kW of capacity produced.

EXISTING AGREEMENTS

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

MULTIPLE CHARGES

6. (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), if two or more of the actions described in Section 4(1) occur at different times, and if the subsequent action has the effect of increasing the need for municipal services as designated in Schedule "A", an additional development charge on the additional residential units and/or commercial and/or industrial floor area, shall be calculated and collected in accordance with the provisions of this by-law.

SERVICE STANDARDS

7. For the purposes of Section 8, the approved service standards for the municipality are those contained in the Development Charges Background Study dated May 3, 2019, as amended.

SERVICES IN LIEU

8. (1) Council may authorize an owner to substitute the whole or such part of the development charge applicable to the owner's development as may be specified in an 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 otherwise applicable to the development, equal to the reasonable cost to the owner of providing the services in lieu provided such credit shall not exceed the total development charge payable by an owner to the municipality.

(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 exceed the service standards referenced in Section 7 and used in the calculation of the charges in Schedules "B-1" and "B-2" and no credit shall be charged to any development charges reserve fund prescribed in this by-law.

FRONT-ENDING AGREEMENTS

9. (1) Council may enter into a front-ending agreement with any or all owners within a benefitting area pursuant to Section 21 of the Development Charges Act, 1997, providing for the payment by the owner or owners of a front-end payment or for the installation of services by the owners or any combination of

front-end payments and installation of services, which may be in addition to the required development charge.

(2) Front-end payments made by benefitting owners under a front-ending agreement relating to the provision of services for which a development charge is payable shall be credited with an amount equal to the reasonable cost to the owner of providing the services, against the development charges otherwise payable under Schedules "B-1" and "B-2" of this by-law.

(3) No credit given pursuant to Subsection 9(1) shall exceed the total development charge payable by the owner for the applicable service component or the standard of service outlined in Schedules "B-1" and "B-2" and referenced in Section 7.

(4) The front-end payment required to be made by the benefitting owner under a front-ending agreement may be adjusted annually.

DEVELOPMENT CHARGE REDEVELOPMENT CREDITS

10. (1) Where there is a redevelopment of land on which there is a conversion of space proposed, or on which there was formerly erected a building or structure that has been demolished, a credit shall be allowed against the development charge otherwise payable by the owner pursuant to this By-law for the portion of the previous building or structure still in existence that is being converted or for the portion of the building or structure that has been demolished, as the case may be, calculated by multiplying the number and type of dwelling units being converted or demolished or the non-residential total floor area being converted or demolished by the relevant development charge in effect on the date when the development charge is payable in accordance with this By-law. If the development includes the conversion from one use (the "first use") to another use, the credit shall be based on the development charges calculated pursuant to this By-law at the current development charge rates, that would be payable as development charges in respect of the first use.

(2) A credit in respect of any demolition under this section shall not be given unless a building permit has been issued or a subdivision agreement has been entered into with the Township for the development occurring within 5 years after the date the demolition occurred.

(3) The amount of any credit hereunder shall not exceed, in total, the amount of the development charges otherwise payable with respect to the development.

TIMING OF CALCULATION AND PAYMENT

11. (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 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.

PHASE-IN PROVISION

12. The charges presented in Schedules B-1 and B-2 are to be phased-in using the following measures:
 - (1) 50% of the increase of the charge will be imposed for Year 1 and Year 2 of the D.C. by-law; and
 - (2) 100% of the increase of the charge will be imposed for Year 3 onwards.

BY-LAW REGISTRATION

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

RESERVE FUND(S)

14.
 - (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 the growth-related net capital costs for which the development charge was levied under this by-law.
 - (2) Council directs the Municipal Treasurer to divide the reserve fund(s) created hereunder into the separate sub-accounts in accordance with the service categories set out in Schedule "A" to which the development charge payments shall be credited in accordance with the amounts shown, plus interest earned thereon.
 - (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.
 - (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).

BY-LAW AMENDMENT OR REPEAL

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 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 to the registered owner of the land on the date on which the refund is paid.
 - (3) 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 refund shall include the interest owed under this Section;
- (c) interest shall be paid at the Bank of Canada rate in effect on the later of:
 - (i) the date of enactment of this by-law, or
 - (ii) the date of the last quarterly adjustment, in accordance with the provisions of Subsection (4).

(4) The Bank of Canada interest rate in effect on the date of enactment of this by-law shall be adjusted on the next following business day to the rate established by the Bank of Canada on that day, and shall be adjusted quarterly thereafter in January, April, July and October to the rate established by the Bank of Canada on the day of adjustment.

DEVELOPMENT CHARGE SCHEDULE INDEXING

16. The development charges referred to in Schedules "B-1" and "B-2" shall be adjusted annually, without amendment to this by-law, commencing on the anniversary date of this by-law and annually thereafter in each year while this by-law is in force, in accordance with the Statistics Canada Quarterly, Construction Price Statistics catalogue number 62007.

BY-LAW ADMINISTRATION

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

SEVERABILITY

18. If, for any reason, any provision of this by-law is held to be invalid, it is hereby declared to be the intention of Council that all of the remainder of this by-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

SCHEDULES TO THE BY-LAW

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

Schedule "A" – Summary of Development Charge Services

Schedule "B-1" – Schedule of Residential and Non-Residential Development Charges – Hard Services

Schedule "B-2" – Schedule of Residential and Non-Residential Development Charges – Soft Services

DATE BY-LAW EFFECTIVE

- 20. (1) This by-law shall come into force and effect on the date of its enactment.
- (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 at an earlier date.

BY-LAW REPEAL

- 21. By-law No. 2019-46 is hereby repealed on the effective date this By-law comes into force.

SHORT TITLE

- 22. This by-law may be cited as the "Development Charges By-law".

THIS By-law read a first, second and third time and finally passed this 15th day of October, 2019.



William Cane, Mayor



K. Surerus, Municipal Clerk

SCHEDULE "A"
SUMMARY OF DEVELOPMENT CHARGE SERVICES

Municipal-Wide Services

- (a) Services Related to a Highway
- (b) Fire Protection Services
- (c) Outdoor Recreation Services
- (d) Indoor Recreation Services
- (e) Library Services
- (f) General Government – Engineering Studies
- (g) General Government – Community Based Studies

SCHEDULE "B-1"
SCHEDULE OF DEVELOPMENT CHARGES – HARD SERVICES

Year 1 and Year 2 (October 16, 2019 - October 15, 2021)
 Schedule of Development Charges (50% of the D.C. Increase)

Service	RESIDENTIAL					NON-RESIDENTIAL
	Single and Semi-Detached Dwelling	Other Multiples	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Solar PV, Telecommunications Towers, and Wind Turbines	(per sq.ft. of Gross Floor Area)
Municipal Wide Services:						
Services Related to a Highway	4,347	2,971	2,557	1,878	4,347	3.17
Fire Protection Services	620	424	365	268	620	0.46
General Government - Engineering Studies	441	301	259	191	-	0.48
Total Municipal Wide Services	5,408	3,696	3,181	2,337	4,967	4.11

Year 3 - 5 (October 16, 2021 - October 15, 2024)
 Schedule of Development Charges (100% of the Charge)

Service	RESIDENTIAL					NON-RESIDENTIAL
	Single and Semi-Detached Dwelling	Other Multiples	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Solar PV, Telecommunications Towers, and Wind Turbines	(per sq.ft. of Gross Floor Area)
Municipal Wide Services:						
Services Related to a Highway	4,347	2,971	2,557	1,878	4,347	3.17
Fire Protection Services	750	513	441	324	750	0.55
General Government - Engineering Studies	441	301	259	191	-	0.48
Total Municipal Wide Services	5,538	3,785	3,257	2,393	5,097	4.20

SCHEDULE "B-2"
SCHEDULE OF DEVELOPMENT CHARGES – SOFT SERVICES

Year 1 and Year 2 (October 16, 2019 - October 15, 2021)
 Schedule of Development Charges (50% of the D.C. Increase)

Service	RESIDENTIAL					NON-RESIDENTIAL (per sq.ft. of Gross Floor Area)
	Single and Semi- Detached Dwelling	Other Multiples	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Solar PV, Telecommunications Towers, and Wind Turbines	
Municipal Wide Services:						
Outdoor Recreation Services	347	237	204	150	-	0.08
Indoor Recreation Services	308	210	181	133	-	0.07
Library Services	67	46	39	29	-	0.02
General Government - Community Based Studies	304	208	179	131	-	0.33
Total Municipal Wide Services	1,025	700	603	443	-	0.49

Year 3 - 5 (October 16, 2021 - October 15, 2024)
 Schedule of Development Charges (100% of the Charge)

Service	RESIDENTIAL					NON-RESIDENTIAL (per sq.ft. of Gross Floor Area)
	Single and Semi- Detached Dwelling	Other Multiples	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Solar PV, Telecommunications Towers, and Wind Turbines	
Municipal Wide Services:						
Outdoor Recreation Services	460	314	271	199	-	0.10
Indoor Recreation Services	308	210	181	133	-	0.07
Library Services	71	49	42	31	-	0.02
General Government - Community Based Studies	304	208	179	131	-	0.33
Total Municipal Wide Services	1,143	781	673	494	-	0.52