

CITY OF ORILLIA

By-law No. 2023-XX

A by-law to establish Development Charges

Whereas subsection 2(1) of the Development Charges Act, 1997, S.O. 1997, c. 27, as amended (the “**Act**”) 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 for the City of Orillia (the “**City**”) was prepared by Hemson Consulting Ltd. and dated December 15, 2022 (the “**Study**”) as required by section 10 of the Act, and was presented to Council along with a draft of this by-law as then proposed and was completed within a one-year period prior to the enactment of this by-law;

And Whereas notice of a public meeting was given pursuant to subsection 12(1) of the Act and in accordance with the regulations under the Act, on or before December 21, 2022;

And Whereas copies of the Study and this proposed by-law were made available to the public in accordance with subsections 10(4) and 12(1) of the Act;

And Whereas a public meeting was held on January 16, 2023 in accordance with the Act to hear comments and representations from all persons who applied to be heard (the “**Public Meeting**”);

And Whereas at the Public Meeting, the Council of the City had before it the Study, wherein it is indicated that the development of any land within the City of Orillia will increase the need for services as defined herein;

And Whereas the Council of the City has heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charges proposal at the Public Meeting, and the public was generally afforded the opportunity to make written submissions relating to this proposed by-law and the Study;

And Whereas the Council of the City on February XX 2023 approved the Study, and supporting staff report date February XX 2023;

And Whereas by the recommendations identified in the staff report approved by the Council of the City on February XX 2023, Council determined that the increase in the need for services attributable to the anticipated development as contemplated in the Study, as modified, including any Capital costs, will be met by updating the capital budget

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and forecast for the City and provided that sufficient development charges revenues are generated, where appropriate;

And Whereas by resolution adopted by the Council of the City on February XX 2023, Council approved the Study, and supporting staff reports, and determined that no further public meetings were required under subsection 12(3) of the Act;

And Whereas by the recommendations identified in the staff report approved by the Council of the City on February XX 2023 Council determined that the future excess capacity identified in the Study, shall be paid for by the development charges contemplated in the Study, or other similar charges;

And Whereas the Council of the City has given consideration of the use of more than one development charges by-law to reflect different needs for services in different areas, also known as area rating or area specific development charges, and has determined that for the services and associated infrastructure proposed to be funded by development charges under this by-law, that it is fair and reasonable that the charges be calculated on a municipal-wide uniform basis;

And Whereas the Study includes a Cost of Growth Analysis that deals with all assets whose Capital costs are intended to be funded under this by-law, and that such assets are considered to be financially sustainable over their full life-cycle;

And Whereas the Council of the City approved the asset management plan outlined in the Study and gave consideration to incorporate the asset management plan identified in the Study within the City's ongoing practices and corporate asset management strategy;

Now Therefore the Council of the Corporation of the City of Orillia hereby enacts as follows:

1. Definitions

The following words and terms shall have the following definitions in this By-law to the extent that they are not in conflict with any definitions in the Act:

1.1 **Act** means the Development Charges Act, 1997, S.O. 1997, c. 27, includes the Regulations passed under the Act.

1.2 **Apartment Dwelling** means any residential dwelling unit within;

a) a building containing three or more dwelling units where access to each residential unit is obtained through a common entrance or entrances from

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the street level and the residential units are connected by an interior corridor;

b) a commercial building;

- 1.3 **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;
- 1.4 **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;
- 1.5 **Board of Education** means a “board” as defined in the Education Act, R.S.O. 1990, c. E.2.
- 1.6 **Building or Structure** means a structure occupying an area greater than ten (10) square metres consisting of walls and a roof or a structural system serving the same purpose as defined in the Building Code and including carports and cloth, plastic or vinyl materials supported by structural frames but does not include awnings or an exterior storage tank.
- 1.7 **Building Code** means O. Reg. 332/12.
- 1.8 **Building Code Act** means the Building Code Act, 1992, S.O. 1992, c. 23, and all Regulations passed thereunder.
- 1.9 **Building Permit** means a permit issued in accordance with the Building Code Act.
- 1.10 **Capital Costs** means a “capital cost” as defined in subsection 5(3) of the Act.
- 1.11 **Commercial Use** means any non-residential building not defined under “institutional” or “industrial”.
- 1.12 **Council** means the Council of the Corporation of the City of Orillia.
- 1.13 **City** means the Corporation of the City of Orillia.
- 1.14 **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 Total Floor Area, and includes Redevelopment.

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- 1.15 **Development Charges** means a charge imposed pursuant to this By- law.
- 1.16 **Duplex** means a Building that is divided horizontally into two (2) Dwelling Units each of which has an independent entrance either directly or through a common vestibule.
- 1.17 **Dwelling Unit** means a combination of rooms in which a kitchen, living quarters and sanitary conveniences are provided for habitation for the exclusive use of the residents and with a private entrance from outside the building or from a common hallway or stairway inside. It may include a modular home constructed in accordance with the Building Code and C.S.A. A-277 Regulations.
- 1.18 **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 other 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) 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;
 - b) loading facilities above or below grade; and
 - c) a part of the building or structure below grade that is used for the parking of motor vehicles or for storage or other accessory use;.
- 1.19 **Industrial Use** means the use of lands, Buildings or Structures in connection with:
- (a) manufacturing, producing, processing, storing or distributing an item;
 - (b) research or development in connection with manufacturing, producing or processing an item;

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- (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 distribution.
 - (ii) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution.
- 1.20 **Institutional Use** means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and shall include, but without limiting the generality of the foregoing, places of worship, and special care facilities.
- 1.21 **Local Services** means those services, facilities or things which are under the jurisdiction of the Municipality and are related to a development or within the area to which the development relates in respect of the lands under Sections 41, 51 or 53 of the Planning Act as amended or any successor thereto;
- 1.22 **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 motor home, travel trailer or tent trailer;
- 1.23 **Multiple Dwellings** means, for the purposes of this By-law, a Townhouse Dwelling or dwelling type other than a single-detached, semi-detached, Duplex or Apartment Dwelling.
- 1.24 **Non-Residential Uses** means land, Buildings or Structures or portions thereof used, or designed or intended to be used for a use other than for a Residential Use and includes all commercial, industrial and institutional uses;
- 1.25 **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.
- 1.26 **Redevelopment** means the construction, erection or placing of one or more Buildings or Structures on land where all or part of a Building or Structure has previously been demolished on such land, or changing the use of a Building or Structure from Residential Use to Non-Residential Use or from Non-Residential Use to Residential Use.

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- 1.27 **Residential Uses** means land, Buildings or Structures or portions thereof used, designed, or intended to be used principally (or primarily) as living accommodation for one or more individuals.
- 1.28 **Semi-Detached Dwelling** means the whole of a Building divided vertically into two (2) separate Dwelling Units.
- 1.29 **Services** means services designated in this By-law including Schedule A to this By-law or in an agreement made pursuant to section 44 of the Act, or both.
- 1.30 **Single Detached Dwelling** means a residential building consisting of one dwelling unit and not attached to another structure and includes mobile homes.
- 1.31 **Temporary Building or Temporary Structure** means a Building or Structure constructed or erected or placed on land for a continuous period not exceeding eight (8) months, or an addition or alteration to a Building or Structure that has the effect of increasing the Total Floor Area thereof for a continuous period not exceeding eight (8) months.
- 1.32 **Townhouse Dwelling** means a Dwelling Unit in a Building divided vertically into no less than three (3) and no more than eight (8) Dwelling Units attached by common walls extended from the base of the foundation to the roof line, each Dwelling Unit having a separate entrance at grade.
- 1.33 All words and phrases used in this By-law that have been defined in the Act and that are not defined in this By-law shall have the same meaning as those words and phrases in the Act.

2. Imposition of Development Charges

- 2.1 A Development Charge shall be calculated and collected in accordance with the provisions of this By-law and shall be imposed on land to be developed for Residential Use or Non-Residential Use, or both, where the Development requires:
- (a) the passing of a zoning by-law or an amendment thereto under section 34 of the Planning Act;
 - (b) the approval of a minor variance under section 45 of the Planning Act;
 - (c) a conveyance of land to which a by-law passed under subsection 50(7) of the Planning Act applies;

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- (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 9 of the Condominium Act, 1998, S.O. 1998, c. 19; or
- (g) the issuing of a permit under the Building Code Act, in relation to a building or structure.

3. Application of This By-Law

- 3.1 This By-law shall apply to all lands within the Corporation of the City of Orillia.
- 3.2 Nothing in this By-law prevents the approval authority or Council, as the case may be, from requiring, as a condition of an agreement under sections 51 or 53 of the Planning Act, that the Owner at his or her own expense shall install or pay for local services as the approval authority or Council may require.

4. Calculation of Development Charges – General

- 4.1 The total amount of Development Charges shall be calculated pursuant to Schedule C of this By-law, in accordance with section 26.1 or section 26.2 of the Act.
- 4.2 Where sections 26.1 and 26.2 of the Act do not apply, the total amount of Development Charges shall be calculated as of the date the first Building Permit is issued for Development.
- 4.3 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 or as otherwise required in accordance with the Act.
- 4.4 Notwithstanding Sections 4.1 and 4.2 of this By-law, an Owner and Council may enter into an agreement to provide for the payment in full of a Development Charge before Building Permit issuance or later than the issuing of a Building Permit, in accordance with section 27 of the Act.
- 4.5 If a Development does not require a Building Permit, the Development Charges shall be calculated in full at the rate in effect at the time the applicable approval required for the Development as set out in Section 2.1 of this By-law is granted.

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- 4.6 Where Subsection 26.1(7) or 26.2(3) of the Act apply to a development for the purposes of determining the amount of the development charge, interest shall be charged on the development charge at a rate not to exceed the maximum rate establish in the Act.

5. Indexing of the Development Charges

- 5.1 Development Charges may be adjusted, without amendment to this By-law, on the first day of January in each year, beginning on February 1, 2024, using the Statistics Canada Quarterly, Non-Residential Building Construction Price Index, in accordance with the Act.

6. Calculation of Development Charges – Residential Uses

- 6.1 The development charges described in Schedule “B” to this by-law shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use building or structure, according to the type of residential unit, and calculated with respect to each of the services according to the type of residential use.

7. Calculation of Development Charges – Non-Residential Uses

- 7.1 The development charges described in Schedule “C” to this by-law shall be imposed on non-residential uses of lands, buildings or structures, and, in the case of a mixed use building or structure, on the non-residential uses in the mixed use building or structure, and calculated with respect to each of the services according to the gross floor area of the non-residential use.

8. Exempt Buildings

- 8.1 The following Buildings are exempt from Development Charges:
- (a) Buildings owned and used by the City or Area Municipality, or any Board of Education used for school purposes;
 - (b) an enlargement of the gross floor area of an existing industrial building in accordance with Section 4 of the Act
 - (c) the issuance of a building permit in accordance with Section 2(3) of the Act

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9. Redevelopment

- 9.1 In accordance with Sections 9.2, 9.3 & 9.4 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 reduced by the amount of Development Charges which were paid for the previous use of the Building or Structure.
- 9.2 No reduction of Development Charges shall apply where a Building or Structure or part thereof has been demolished and no Building Permit has been issued within 48 months from the date of issuance of the demolition permit authorizing the demolition of the Building or Structure.
- 9.3 Reduction of Development Charges 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.
- 9.4 No reduction of Development Charges shall be applied with respect to the Redevelopment, conversion, demolition, or change of use of a Building or Structure or part thereof where the existing Building or Structure or part thereof would be exempt from Development Charges in accordance with this By-law.

10. Payment of Development Charges

- 10.1 Development Charges shall be payable in full on the date that the first Building Permit is issued.
- 10.2 Notwithstanding subsection 11.1, the component of the development charge with respect to roads, sanitary sewer sewerage, waterworks and storm water management services set out in Schedule "B" and Schedule "C", shall be payable, with respect to an approval of a Plan of subdivision under Section 51 of the Planning Act, immediately upon entering into the Subdivision Agreement, unless otherwise provided for by an Agreement under Section 27 of the Act. The balance of the applicable charge is payable upon issuance of the building permit.
- 10.3 Despite Section 11.1, where multiple Building Permits are required for Development, Development Charges shall be payable in full, on the date that the first Building Permit is issued.

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- 10.4 Despite Section 11.1, if a Development consists of two (2) or more phases that will not be constructed concurrently and are anticipated to be completed in different years, each phase of the Development is deemed to be a separate Development for the purposes of the payment of Development Charges.
- 10.5 Except as otherwise provided in this By-law, a Building Permit shall not be issued until the Development Charges have been paid in full.

11. Written Agreements with the City

- 11.1 The City is authorized to enter into the following agreements to provide for:
- (a) a credit for the reasonable cost of providing Services in addition to, or of a greater size or capacity, than would be required under this By-law pursuant to section 38 of the Act whereby the credit shall not exceed the service standard used in the calculation of the Development Charges, and no credit shall be charged to any Development Charges reserve fund prescribed in this By-law or exceed the proportion of the Development Charges related to that Service payable to the City;
 - (b) all or any part of a Development Charge to be paid before or after it would otherwise be payable pursuant to section 27 of the Act; and
 - (c) for front-ending of Services pursuant to section 44 of the Act.
- 11.2 This By-law shall prevail over any previous agreements between a property owner and the City with respect to the payment of impost fees, lot levies or Development Charges. However, where fees or charges have been paid for services included in this By-law pursuant to an agreement that was registered on the title of the lands prior to the enactment of this By-law, the City shall apply that fee or charge to reduce the amount of applicable Development Charges that are payable.

12. Refunds

- 12.1 Refunds of Development Charges that have been paid will be made, without interest, where:
- (a) a Building Permit that was issued for which Development Charges were paid to the City is subsequently revoked;
 - (b) Development Charges have been paid at the time of issuance of a Building Permit and a reduction in accordance with Section 9 of this By-

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law is subsequently identified, and the Owner files a written request to the Director of Finance that the amount of the reduction be refunded;

- (c) Development Charges have been paid at the time of or prior to the issuance of a Building Permit and the Building Permit is subsequently revised by the local municipality's Chief Building Official or designate, resulting in an overpayment of Development Charges to the City; or
- (d) a clerical, typographical, factual or similar error, has occurred with respect to the calculation of a Development Charge which resulted in an overpayment to the City.

- 12.2 Where this By-law or any Development Charges paid hereunder is amended or repealed by order of the Ontario Land Tribunal or by Council or a complaint is allowed by Council or the Ontario Land Tribunal, the City shall forthwith pay the appropriate refund together with interest, calculated in accordance with the Act.

13. Administration

- 13.1 This By-law shall be administered by the Treasurer of the City.

14. Reserve Funds

- 14.1 Monies received from payment of Development Charges shall be maintained in separate reserve funds, and shall be used only to meet the growth-related net Capital costs for which Development Charges were collected under this By-law.
- 14.2 Where any Development Charges, or part thereof, remains unpaid after the due date, the unpaid amount shall be added to the tax roll and shall be collected as taxes. Where any unpaid Development Charges are collected as taxes, the monies so collected shall be credited to the applicable Development Charges reserve funds.
- 14.3 The Treasurer shall, in each year on or before July 1, commencing in 2024 for the 2023 year, furnish to Council a statement in respect of the reserve funds established hereunder for the prior year, containing the information set out in Section 12 of O. Reg. 82/98.
- 14.4 The Treasurer shall make available to the public, the statement set out in Section 15.3, as well as a list of projects whose Capital costs were funded under a Development Charges by-law during the year and the manner in which

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any portion of the Capital cost not funded under the by-law was or will be funded.

15. Interest on Deferrals and Freeze

- 15.1 The City may charge interest on installments required by Section 26.1 (3) of the Act from the date the development charge would have been payable in accordance with Section 26 of the Act to the date the installment is paid.
- 15.2 Where Section 26.2 (1) (a) or (b) of the Act applies, the City may charge interest on the development charge from the date of the application referred to in the applicable clause to the date the development charge is payable under Section 26.2 (3) of the Act.
- 15.3 The City may determine, by Council resolution or policy external to this by-law, interest rates in relation to subsections 16.1 and 16.2.

16. Schedules

- 16.1 The following schedules to this By-law form an integral part of this By-law;
 - (a) Schedule “A” - Classification of Services;
 - (b) Schedule “B” – Residential Development Charges;
 - (c) Schedule “C” – Non-Residential Development Charges.

17. General

- 17.1 This By-law comes into full force and effect on February 13, 2023 and all other Development Charges by-laws are hereby repealed.
- 17.2 Unless repealed earlier, or unless the term of the By-law is altered by legislation, this By-law expires ten (10) years from the day it comes into force.
- 17.3 Where in this By-law the context so requires, words in the singular include the plural and words in the plural include the singular, and words importing the masculine gender include feminine and neutral gender.
- 17.4 Any reference to a statute or regulation in this By-law includes all amendments, consolidations, replacements thereto and any successor legislation.

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- 17.5 Any portion of this By-law found to be invalid shall be severed, and the balance of the By-law shall be deemed to be valid and enforceable and shall be construed without reference to the invalid portions.

Read and passed this XX day of February 2023.

Mayor

CAO/ City Clerk

Schedule "A"
Classification of Services

Library Services
Fire Services
Indoor Recreation
Park Development, Facilities, and Fleet
Services Related to a Highway: -Public Works -Roads & Related
Transit
Waste Diversion Services
Paramedic Services (Emergency Medical Services)
Long-Term Care
Wastewater
Water
Stormwater

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Schedule "B"
Residential Development Charges

	Residential Charge By Unit Type			
	Single & Semi-Detached	Other Multiples	Apartments 2 Bedrooms +	Apartments Bachelor & 1 Bedroom
Library Services	\$966	\$902	\$758	\$531
Fire Services	\$956	\$893	\$750	\$525
Indoor Recreation	\$2,810	\$2,623	\$2,204	\$1,543
Park Development, Facilities & Fleet	\$4,653	\$4,344	\$3,650	\$2,555
Services Related To A Highway: Public Works	\$844	\$788	\$662	\$463
Transit	\$1,349	\$1,259	\$1,058	\$741
Waste Diversion Services	\$548	\$512	\$430	\$301
Paramedic Services	\$227	\$212	\$178	\$125
Long Term Care	\$520	\$486	\$408	\$286
Social Housing	\$0	\$0	\$0	\$0
Growth-Related Studies	\$0	\$0	\$0	\$0
Subtotal General Services	\$12,873	\$12,019	\$10,098	\$7,070
Services Related To A Highway: Roads And Related	\$6,346	\$5,924	\$4,978	\$3,485
Wastewater	\$4,265	\$3,982	\$3,346	\$2,342
Water	\$1,945	\$1,816	\$1,526	\$1,068
Stormwater	\$859	\$802	\$674	\$472
Subtotal Engineered Services	\$13,415	\$12,524	\$10,524	\$7,367
TOTAL CHARGE PER UNIT	\$26,288	\$24,543	\$20,622	\$14,437

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**Schedule “C”
Non-Residential Development Charges**

Service	Non-Residential
	Adjusted Charge per Square Metre
Library Services	\$0.00
Fire Services	\$5.99
Indoor Recreation	\$0.00
Park Development, Facilities & Fleet	\$0.00
Services Related To A Highway: Public Works	\$5.31
Transit	\$8.50
Waste Diversion Services	\$0.00
Paramedic Services	\$1.43
Long Term Care	\$0.00
Social Housing	\$0.00
Growth-Related Studies	\$0.00
Subtotal General Services	\$21.23
Services Related To A Highway: Roads And Related	\$39.87
Wastewater	\$27.36
Water	\$12.42
Stormwater	\$5.49
Subtotal Engineered Services	\$85.14
TOTAL CHARGE PER SQUARE METRE	\$106.37