

THE CORPORATION OF THE COUNTY OF MIDDLESEX

BY-LAW #XXXX

A BY-LAW to establish Development Charges for Middlesex County.

WHEREAS:

- A. The *Development Charges Act, 1997* (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;
- B. A Development Charges Background Study has been completed in accordance with the Act;
- C. Council has before it a report entitled "Middlesex County Development Charge Background Study" prepared by Watson & Associates Economists Ltd. dated May 13, 2024;
- D. Council approves the capital project listing set out in Chapter 4 of the D.C. Background Study dated May 13, 2024, subject to further annual review during the capital budget process;
- E. Council of the Corporation of Middlesex County has given notice of and held a public meeting on the 26th day of June, 2024 in accordance with the Act and the regulations thereto;
- F. Council, whenever appropriate, request that grants, subsidies and other contributions be clearly designated by the donor as being to the benefit of existing development or new development, as applicable;
- G. Council considered the use of area-specific charges and adopts the approach to calculate the charges on a County-wide basis;

NOW THEREFORE the Council of the Corporation of the County of Middlesex enacts as follows:

1.0 Definitions

In this By-law the following terms have the following meanings:

"**Act**" means the *Development Charges Act, 1997*, as amended, S.O. 1997, c.27;

"**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, but is not an ancillary residential building;

"**Affordable residential unit**" means a residential unit that meets the criteria set out in subsection 4.1(2) or 4.1(3) of the Act;

"**Agricultural use**" means use or intended use for bona fide farming purpose:

- (a) including (but not limited to):
 - i. cultivation of crops, whether on open land or in greenhouses, including (but not limited to) fruit, vegetables, herbs, grains, field crops, cannabis, sod, trees, shrubs, flowers, and ornamental plants;

- ii. raising of animals, including (but not limited to) cattle, horses, pigs, poultry, livestock, fish; and
 - iii. agricultural animal husbandry, dairying, equestrian activities, horticulture, fallowing, pasturing, and market gardening;
- (b) but excluding:
- i. retail sales activities; including but not limited to restaurants, banquet facilities, hospitality facilities and gift shops;
 - ii. services related to grooming, boarding, or breeding of household pets; and
 - iii. cannabis processing or production facilities.

“Ancillary residential building” means a residential building that would be ancillary to a detached dwelling, semi-detached dwelling, or row dwelling.

“Apartment unit” means any residential dwelling unit within a building containing three or more dwelling units where access to each residential unit is obtained through a common entrance or entrances from the street level and the residential units are connected by an interior corridor and includes stacked townhouse dwellings;

“Attainable residential unit” means a residential unit that meets the criteria set out in subsection 4.1(4) of the Act;

“Back-to-back townhouse dwelling” means a building containing more than two dwelling units separated vertically by a common wall, including a rear common wall, that do not have rear yards;

“Bedroom” means a habitable room, including a den, study, or other similar area, but does not include a living room, dining room or kitchen;

“Board of Education” has the same meaning as that specified in the *Education Act* or any successor thereto;

“Building permit” means a permit pursuant to the *Building Code Act, 1992, S.O. 1992, c. 23*, as amended;

“Building Code Act” means the *Building Code Act, S.O. 1992; Chapter 23*, as amended and all Regulations thereto including the Ontario Building Code, 1997, as amended or any successor legislation thereof;

“Calculation date” means the date on which the first building permit is issued by the local municipality, unless otherwise stipulated in the D.C.A.;

“Class of service” means a grouping of services combined to create a single service for the purposes of this by-law and as provided in Section 7 of the Development Charges Act.

“Commercial purpose” means used, designed, or intended for use for or in connection with the purchase and/or sale and/or rental of commodities; the provision of services for a fee; or the operation of a business office, and includes hotels and motels;

“Council” means the Council of the County;

“County” means The Corporation of Middlesex County;

“Development” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability

thereof, and includes redevelopment; notwithstanding the foregoing, development does not include temporary structures, including but not limited to, seasonal hoop structures, seasonal fabric structures, tents, or produce sales stands;

“Development charge” means a charge imposed with respect to this by-law.

“Dwelling room” means either:

- (a) each bedroom used, designed, or intended for use by one or more persons living together in a lodging home, dormitories, or
- (b) in the case of a special care/special dwelling unit/room, each individual room or suite of rooms used, designed, or intended for use by one or two persons with or without exclusive sanitary and/or culinary facilities.

“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;

“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 and would include wholesale greenhouse facilities and structures;

“Grade” means the average level of finished ground adjoining a building or structure at all exterior walls;

“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 room or enclosed area within the building or structure above or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
- loading facilities above or below grade; and
- a part of the building or structure below grade that is used for the parking of motor vehicles or for storage or other accessory use;

“Hospice” means a building or portion of a mixed-use building designed and intended to provide palliative care and emotional support to the terminally ill in a home or homelike setting so that quality of life is maintained, and family members may be active participants in care;

“Industrial use” means land, buildings or structures used for or in connection with manufacturing by:

- (a) manufacturing, producing, and processing goods for a commercial purpose, as well as storing and/or distribution of goods manufactured, produced, or processed on site;

- (b) research or development in connection with manufacturing, producing, or processing good for a commercial purpose;
- (c) retail sales by a manufacturer, producer, or processor of goods 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 it is:
 - 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;

and shall not include self-storage or mini-storage facilities.

“Institutional” 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;

“Live/work unit” means a unit which contains separate residential and non-residential areas intended for both residential and non-residential uses concurrently, and shares a common wall or floor with direct access between the residential and non-residential areas;

“Local board” means a municipal service board, transportation commission, public library board, board of health, police services board, planning 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 one or more local municipalities or the Region, but excluding a board of education, a conservation authority, any municipal services corporation that is not deemed to be a local board under O. Reg. 599/06 made under the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

“Local services” means those services, facilities or things which are under the jurisdiction of the municipality and are related to a plan of subdivision or within the area to which the plan relates in respect of the lands under Sections 41, 51 or 53 of the *Planning Act* as amended or any successor thereto;

“Lodging home” means a boarding, lodging, or rooming house in which lodging is provided for more than four persons in return for remuneration or for the provision of services, or for both, and in which the lodging rooms do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants;

“Long term care home” means homes, nursing homes or homes for the aged where the Ministry of Health and Long-Term Care funds the care provided in such homes and application for accommodation is made through a Community Care Access Centre;

“Mixed-use building” means a building or structure used for both residential and non-residential use;

“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;

“Multiple dwellings” means all dwellings other than single-detached, semi-detached, apartment unit and/or special care/special dwelling units;

“Multiplex dwelling” means a residential building containing three or more dwelling units, each of which unit has a separate entrance to grade;

“Municipal Act” means the *Municipal Act, 2001*, S.O. 2001, c. 25.

“Non-industrial” means all non-residential buildings or structures not defined as industrial;

“Non-profit housing development” means development of a building or structure intended for use

- (a) a corporation without share capital to which the *Corporations Act* applies, that is in good standing under that Act and whose primary object is to provide housing;
- (b) a corporation without share capital to which the *Canada Not-for-profit Corporations Act* applies, that is in good standing under that Act and whose primary object is to provide housing; or
- (c) a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*, or any successor legislation. as residential premises by,

“Non-residential building” means a building or structure used exclusively for non- residential use, including the non-residential component of a live/work unit;

“Non-residential use” means a building or structure of any kind whatsoever used, designed, or intended to be used for other than a residential use and includes all commercial, industrial, and institutional uses;

“Other multiple” means all residential units other than a single detached dwelling, semi-detached dwelling, apartment dwelling or a special care/special dwelling unit, including, but not limited to, row dwellings, multiplex, back-to-back townhouse dwelling, and the residential component of live/work units;

“Official Plan” means the Official Plan adopted for the County, as amended, and approved;

“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;

“Place of worship” means that part of a building or structure that is exempt from taxation as a place of worship under the Assessment Act, as amended or any successor thereto;

“Premise” means one or more dwelling units and/or one or more square feet used for non-residential use;

“Rate” means the interest rate established weekly by the Bank of Canada for treasury bills having a term of 30 days;

“Redevelopment” means the construction, erection or placing of one or more buildings on land where all or part of a building on such land has been previously demolished, or changing the use of all or part of a building from a residential purpose to a non-residential purpose or from a non-residential purpose to a residential purpose, or changing all or part of a building from one form of residential development to another form of residential development or from one form of non-residential development to another form of non-residential development;

“Regulation” means any regulation made pursuant to the Act.

“Rental housing” means development of a building or structure with four or more dwelling units all of which are intended for use as rented residential premises;

“Residential dwelling” means a building, occupied or capable of being occupied as a home, residence or sleeping place by one or more persons, containing one or more dwelling units but not including motels, hotels, tents, truck campers, tourist trailers, mobile camper trailers or boarding, lodging or rooming houses;

“Residential use” means land or buildings, or structures of any kind whatsoever used, designed, or intended to be used as living accommodations for one or more individuals;

“Row dwelling” means a building containing three or more attached dwelling units in a single row, each of which dwelling units has an independent entrance from the outside and is vertically separated from any abutting dwelling unit;

“Semi-detached dwelling” means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal walls, but no other parts, attached or another dwelling unit where the residential units are not connected by an interior corridor;

“Service” (or "services") means those services designated in *Schedule "A"* to this by-law;

“Servicing agreement” means an agreement between a landowner and the County relative to the provision of County services to specified lands within the County;

“Single detached dwelling unit” means a residential building consisting of one dwelling unit and not attached to another structure and includes mobile homes.

“Special care/special dwelling” means a residence:

- (a) containing two or more dwelling rooms, which rooms have common entrance from street level; and
- (b) where the occupants have the right to use in common with other occupants, halls, stairs, yards, common room, and accessory buildings; and
- (c) that is designed to accommodate persons with specific needs, including but not limited to, independent permanent living arrangements; and where support services, such as meal preparation, grocery shopping, laundry, housing, nursing, respite care and attending services are provided at various levels; and includes but is not limited to retirement homes or lodging homes, group homes, dormitories, and hospices;

“Stacked townhouse dwelling” means a building containing two or more dwelling units where each dwelling unit is separated horizontally and/or vertically from another dwelling unit by a common wall or floor;

“Use” means either residential use or non-residential use;

“Zoning by-law” means the Zoning By-law or By-laws passed under Section 34 of the Planning Act and in force and effect in the County, or part thereof.

2.0 Designation of Services and Classes of Services

2.1 The categories of services and classes of services for which development charges are imposed under this by-law are as follows:

- (a) Services Related to a Highway; and
- (b) Growth Studies.

2.2 The components of the services and classes designated in subsection 2.1 are described in *Schedule "A"*.

3.0 Application of By-Law Rules

3.1 Development charges shall be payable in the amounts set out in this by-law where:

- (a) the lands are located in the area described in Section 3.2; and
- (b) the development of the lands requires any of the approvals set out in subsection 3.4(a).

Area to Which By-Law Applies

3.2 Subject to subsection 3.3, this by-law applies to all lands in the geographic area of Middlesex County.

3.3 This by-law shall not apply to lands that are owned by and used for the purposes of:

- (a) Middlesex County or its area municipalities, or a local board thereof;
- (b) A board as defined in section 1(1) of the Education Act.
- (c) Land vested in or leased to a university that receives regular and ongoing operating funds from the government for the purposes of post-secondary education is exempt from development charges imposed under the Act if the development in respect of which development charges would otherwise be payable is intended to be occupied and used by the university.
- (d) Non-profit Housing development;
- (e) Affordable housing units required pursuant to section 34 and 16(4) of the *Planning Act* (Inclusionary Zoning).

3.4 Approvals for Development

- (a) Development charges shall be imposed on all lands, buildings or structures that are developed for residential or non-residential uses if the development requires:
 - (i) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;
 - (ii) the approval of a minor variance under section 45 of the *Planning Act*;
 - (iii) a conveyance of land to which a by-law passed under subsection 50 (7) of the *Planning Act* applies;
 - (iv) the approval of a plan of subdivision under section 51 of the *Planning Act*;

- (v) a consent under section 53 of the *Planning Act*;
 - (vi) the approval of a description under section 50 of the *Condominium Act*; or
 - (vii) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.
- (b) No more than one development charge for each service designated in subsection 2.1 shall be imposed upon any lands, buildings, or structures to which this by-law applies even though two or more of the actions described in subsection 3.4(a) are required before the lands, buildings or structures can be developed.
- (c) Despite subsection 3.4(b), if two or more of the actions described in subsection 3.4(a) occur at different times, additional development charges shall be imposed if the subsequent action has the effect of increasing the need for services.

3.5 Exemptions

Rules with Respect to Exemptions for Intensification of Existing Housing or New Housing

3.5.1 Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to developments or portions of developments as follows:

- (a) the enlargement to an existing residential dwelling unit;
- (b) the creation of additional dwelling units equal to the greater of one dwelling unit or one percent of the existing dwelling units in existing rental housing or a prescribed ancillary residential dwelling structure to the existing residential building;
- (c) notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to the creation of any of the following in existing houses:
 - i. a second residential unit in an existing detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if all buildings and structures ancillary to the existing detached house, semi-detached house or row dwelling cumulatively contain no more than one residential unit.
 - ii. A third residential unit in an existing detached house, semi-detached house or row dwelling on a parcel of land on which residential use, other than ancillary residential use, is permitted, if no building or structure ancillary to the existing detached house, semi-detached house or rowhouse contains any residential units.
 - iii. One residential unit in a building or structure ancillary to an existing detached house, semi-detached house or row dwelling on a parcel of urban residential land, if the existing detached house, semi-detached house or rowhouse contains no more than two residential units and no other building or structure ancillary to

the existing detached house, semi-detached house or rowhouse contains any residential units.

- (d) notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to the creation of any of the following in new residential buildings:
- i. a second residential unit in a new detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if all buildings and structures ancillary to the new detached house, semi-detached house or row dwelling cumulatively will contain no more than one residential unit.
 - ii. a third residential unit in a new detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if no building or structure ancillary to the new detached house, semi-detached house or row dwelling contains any residential units.
 - iii. One residential unit in a building or structure ancillary to a new detached house, semi-detached house or rowhouse on a parcel of urban residential land, if the new detached house, semi-detached house or rowhouse contains no more than two residential units and no other building or structure ancillary to the new detached house, semi-detached house or row dwelling contains any residential units.

3.5.2 The exemption to development charges 3.5.1 above shall only apply to the first instance of intensification in an existing or new dwelling.

3.5.3 Subject to 3.5.2 above, any exemption under 3.5.1 above shall apply to the smallest dwelling unit, as determined by applicable.

3.6 Other Exemptions/Reductions

Notwithstanding the provision of this By-law, development charges shall not be imposed with respect to:

- industrial development;
- land, buildings, or structures used for a place of worship or for the purpose of a cemetery or burial ground and exempt from taxation under the *Assessment Act*, R.S.O. 1990, c.A.31, as amended;
- non-residential agricultural use buildings shall be exempt from the development charge;

3.7 Discounts for Rental Housing (for profit)

D.C. payable for rental housing developments, where the residential units are intended to be used as a rented residential premises will be reduced based on the number of bedrooms in each unit as follows:

- Three or more bedrooms – 25% reduction
- Two bedrooms – 20% reduction
- All other bedroom quantities – 15% reduction

3.8 Other Exemptions (upon proclamation)

Once proclamation is received by the Lieutenant Governor, the following shall be exempt from development charges:

- Affordable residential units; and
- Attainable residential Units

3.9 Reduction of Development Charges with Respect to Redevelopment and Conversion

Despite any other provision of this By-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within 5 years prior to the date of payment of development charges in regard to such redevelopment was, or is to be demolished, in whole or in part, or converted from one principal use to another principal use on the same land, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by the following amounts:

- (a) in the case of a residential building or structure, or in the case of a mixed-use building or structure, the residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charge under subsection 3.10 of this by-law by the number, according to type, of dwelling units that have been or will be demolished or converted to another principal use; and provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.
- (b) in the case of a non-residential building or structure or, in the case of mixed-use building or structure, the non-residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charges under subsection 3.11 by the gross floor area that has been or will be demolished or converted to another principal use; provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.

Amount of Charges

3.10 Residential

The development charges set out 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, including the residential component of a live/work unit, according to the type of residential unit, and calculated with respect to each of the services according to the type of residential use.

3.11 Non-Residential

The development charges described in Schedule B 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, including the non-residential component of a live/work unit, and calculated with

respect to each of the services according to the gross floor area of the non-residential use.

3.12 Mandatory Phase-in

The amount of the development charges described in Schedule B to this by-law shall be reduced as per the mandatory phase-in requirements of the Act.

Time of Calculation and Payment of Development Charges

- 3.13 Development charges imposed under this By-law are calculated, payable, and collected upon issuance of the first building permit for the development.
- 3.14 Notwithstanding subsection 3.13, development charges for rental housing and institutional developments are due and payable in 6 installments commencing with the first installment payable on the date of occupancy, and each subsequent installment, including interest as provided in accordance with Section 26.3 of the Act.
- 3.15 Where the development of land results from the approval of a site plan or zoning by-law amendment received on or after January 1, 2020, and the approval of the application occurred within the timeframe set out in Section 26.2(5) of the Act, the development charges under subsections 3.10 and 3.11 shall be calculated on the rates set out in Schedule "B" on the date of the planning application, including interest. Where both planning applications apply development charges under subsections 3.10 and 3.11 shall be calculated on the rates, including interest at a rate of the average prime rate plus 1% as defined by Section 26.3 of the Act, payable on the anniversary date each year thereafter, set out in Schedule "B" on the date of the later planning application, including interest.
- 3.16 Notwithstanding subsections 3.13 to 3.15 and in accordance with section 27 of the Act, Council from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable.

4.0 Payment by Services

- 4.1 Payment of development charges shall be by cash, debit, bank draft or certified cheque or as otherwise approved at the sole discretion of the Treasurer.
- 4.2 In the alternative to payment by the means provided in section 4.1 herein, the County may, by a written agreement entered into with the owner, accept the provision of services in full or partial satisfaction of the development charges otherwise payable.
- 4.3 If the County and the owner cannot agree as to the reasonable cost of doing the work under section 4.2, the dispute shall be referred to Council whose decision shall be final and binding.
- 4.4 Any refund or credit required to be given by the County to an owner shall be in relation to a service as per subsection 39(1) of the Act. The County may agree by agreement to provide a credit in relation to another service as per subsection 39(3) of the Act or may provide for another basis for recovery.
- 4.5 If development charges or any part thereof payable pursuant to this By-law remain unpaid after such charges are payable, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as taxes.

5.0 Indexing

5.1 Development charges imposed pursuant to this by-law shall be adjusted annually on January 1st of each year, without amendment to this by-law in accordance with the Act, beginning on January 1, 2025.

6.0 Schedules

6.1 The following schedules to the by-law form an integral part thereof:

Schedule A – Components of Services and Classes of Service Designated in Subjection 2.1

Schedule B – Residential and Non-Residential Development Charges

7.0 Date of By-Law in Force

7.1 This By-law shall come into force on the 16th day of July, 2024.

8.0 Severability

8.1 If, for any reason, any provision, section, subsection or paragraph of this By-law is held invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part or dealt with in any other way.

Passed in Council this 16th day of July, 2024.

Aina DeViet, Warden

Paul Shipway, County Clerk

Schedule "A"
To By-Law #XXXX

Components of Services and Classes of Services Designated in Subsection 2.1

D.C. - Eligible Services:

- Services Related to a Highway
 - Roads and Related Infrastructure
 - Facilities and Fleet

D.C. - Eligible Class:

- Growth Studies
 - All D.C. eligible services

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Schedule "B"
To By-Law #XXXX
Schedule of Development Charges

Service/Class of Service	RESIDENTIAL					NON-RESIDENTIAL
	Single and Demi-Detached Dwelling	Other Multiples	Apartments – 2 Bedrooms +	Apartments – Bachelor and 1 Bedroom	Special Care/Special Dwelling Units	(per sq. ft. of Gross Floor Area)
Municipal Wide Services/Class of Service:						
Services Related to a Highway	5,462	4,188	3,779	2,405	1,955	3.64
Growth Studies	22	17	15	10	8	0.01
Total Municipal Wide Services/Class of Services	5,484	4,205	3,794	2,415	1,963	3.65

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