



**Table of Contents**

Definitions ..... 2  
 Imposition of Development Charges..... 4  
 Application of this By-Law ..... 4  
 Calculation of Development Charges - General ..... 4  
 Indexing of the Development Charge ..... 4  
 Calculation of Development Charges - Residential ..... 4  
 Calculation of Development Charges - Non- Residential ..... 5  
 Exempt Buildings..... 5  
 Redevelopment ..... 5  
 Payment of Development Charges ..... 6  
 Written Agreements with the City ..... 6  
 Administration ..... 7  
 Refunds ..... 7  
 Schedules..... 7  
 General..... 7

**Consolidated Version**

*Last revised on September 29, 2020*

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2020-112 (Original)	September 28, 2020

**Consolidated for Convenience Only**

This is a consolidation copy of a City of Owen Sound By-law for convenience and information. While every effort is made to ensure the accuracy of this by-law, it is not an official version or a legal document. The original by-law should be consulted for all interpretations and applications on this subject. For more information or to view by-laws please contact the Clerks Department.

# The Corporation of the City of Owen Sound

## By-law No. 2020-112

### A By-law to establish Development Charges for the City of Owen Sound

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WHEREAS 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; and

WHEREAS the Act provides that a development charge by-law may only be passed within the one-year period following the completion of a development charge background study; and

WHEREAS on October 16, 2019 a development charge background study was completed by Hemson Consulting Ltd. in accordance with the Act; and

WHEREAS on December 16, 2019 the Council of the Corporation of the City of Owen Sound (the "City") passed Development Charges By-law No. 2019-199; and

WHEREAS amendments to the Act came into effect, under the *More Homes, More Choice Act, 2019* and *COVID-19 Economic Recovery Act, 2020*, and certain housekeeping matters were identified by City staff following the passing of By-law No. 2019-199; and

WHEREAS City Council is desirous of updating the City's development charge by-law to address legislative changes and housekeeping matters within the one-year period following the completion of the development charge background study; and

WHEREAS copies of the City's development charge background study were made available to the public on August 21, 2020 and copies of the proposed development charges by-law were made available to the public on September 1, 2020; and

WHEREAS on September 14, 2020, City Council held a public meeting pursuant to the Act; and

WHEREAS City Council heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charge proposal at the said public meeting held on September 14, 2020; and

WHEREAS City Council has given consideration of the use of more than one development charge 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 with the exception of Wastewater Services in the Sydenham Heights Planning Area; and

WHEREAS on September 14, 2020, City Council passed Resolution No. R-200914-007 directing staff to bring forward a by-law to levy development charges with an \$8,000 cap, in consideration of staff report CR-19-140;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

## Definitions

1. All words and phrases used in this by-law that have been defined in the Act shall have the same meaning as those words and phrases in the Act;
2. Where the *Development Charges Act* does not specify a definition, the following definitions shall apply to the extent that they are not in conflict with the definitions in the Act:

**Act** means the *Development Charges Act, 1997* as amended from time to time and includes the Regulations passed under the Act, as amended from time to time.

**Apartment Dwelling** means any dwelling unit within a building containing more than three dwelling units where the units are connected by an interior corridor;

**Board** means a district school board or a school authority as defined in subsection 1(1) of the *Education Act*. For clarity, a Board shall not include a board of a post-secondary institution or an Indigenous institute;

**Building or Structure** means a structure occupying an area greater than 10 square metres consisting of a wall, roof, and floor or any of them or a structural system serving the function thereof, but does include an air-supported structure and an exterior storage tank;

**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;

**Building Permit** means a Permit issued in accordance with the *Building Code Act*;

**Commercial Use** means any non-residential use not defined under "institutional" or "industrial";

**City** means The Corporation of the City of Owen Sound;

**Council** means the Council of the City;

**County** means The County of Grey;

**Detached Dwelling** means a completely detached residential building containing only one dwelling unit;

**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 Gross Floor Area, and includes Redevelopment;

**Development Charge** means a charge imposed pursuant to this by-law;

**Duplex** means a building that is divided horizontally into two dwelling units each of which has an independent entrance either directly or through a common vestibule;

**Dwelling Unit** means one or more habitable rooms designed or intended to be used together as a single and separate house-keeping unit by one person or jointly by two or more persons containing its own kitchen and sanitary facilities, with a private entrance from outside the unit itself;

**Gross Floor Area** means the sum total of all the areas of the floors in a building or structure, whether at, above, or below-grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating two uses, or room the outside edge of a floor where the outside edge of the floor does not meet an exterior or common wall, and:

- a. includes the floor area of a mezzanine and air-supported structure and the space occupied by interior wall partitions; and
- b. excludes any parts of the building or structure used for:

- i. mechanical equipment related to the operation or maintenance of the building or structure;
  - ii. stairwells,
  - iii. elevators,
  - iv. washrooms;
  - v. and the parking and loading of vehicles; and
- c. where a building does not have any walls, the gross floor area shall be the sum total of the area of land directly beneath the roof of the building and the total areas of the floors in the building or structure;

**Industrial Use** means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;

**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, without limiting the generality of the foregoing, places of worship, medical clinics, and special care facilities;

**Multiple Dwelling** means residential buildings not including single detached dwellings, semi-detached dwellings or apartment dwellings;

**Non-profit housing** means development of a building or structure intended for use as residential premise by:

- 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;
- c. A non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*;
- d. Any housing providers that are managed by the County in its capacity as a Service Manager under the *Housing Services Act*; or
- e. The Grey County and Owen Sound Housing Company, the Owen Sound Municipal Non-Profit Housing Corporation, or any other housing corporation initiated by the Province, the County, and/or the City of Owen Sound;

**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 would include commercial, industrial and institutional uses;

**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;

**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 to non-residential or from non-residential to residential;

**Rental Housing Development** means development of a building or structure with four or more dwelling units all of which are intended for use as a rented residential premises. For greater clarity, this does not include apartment condominiums or life-lease units. Rental Housing Developments must result in four or more additional self-contained units that are intended

for use as rented residential premises as indicated by agreement described in section 34;

**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;

**Services** means services designated in this by-law including Schedule A to this by-law or in agreement with section 2 (4) of the Act, or both;

**Semi-Detached Dwelling** means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;

**Temporary Building or Structure** means a building or structure constructed or erected or placed on land for a continuous period not exceeding eight months, or an addition or alteration to a building or structure that has the effect of increasing the gross floor area thereof for a continuous period not exceeding eight months;

**Townhouse** means a residential dwelling unit attached to other units by a common sidewall, where the number of attached units is no less than three and no greater than eight;

3. The reference to any statute or regulation in this by-law includes not only the statute or regulation itself, but also any statute or regulation that replaces it in the future.
4. The reference to any section or subsection of any statute or regulation in this by-law includes not only the section or subsection itself but also the equivalent section or subsection in any statute or regulation that replaces it, as amended from time to time.

#### **Imposition of Development Charges**

5. A development charge shall be paid in respect of all development, as provided in this by-law.

#### **Application of this By-Law**

6. This by-law shall apply to all lands within The Corporation of the City of Owen Sound.
7. No land, except land owned by and used for the purposes of a municipality or a board as defined in subsection 1 (1) of the *Education Act*, is exempt from a development charge by reason only that it is exempt from taxation under section 3 of the *Assessment Act*.
8. 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 the *Planning Act*, ss. 51 or 53, that the owner at his or her own expense shall install or pay for local services as the approval authority or Council may require.

#### **Calculation of Development Charges - General**

9. Development charges shall be calculated in accordance with Schedule "B" and Schedule "C".

#### **Indexing of the Development Charge**

10. Development charges may be adjusted, without amendment to this by-law annually on the anniversary date of this by-law, commencing, one year from the in force date of this by-law, in accordance with the Act.

#### **Calculation of Development Charges - Residential**

11. Development charges shall apply to each dwelling unit in every development, whether single-use or mixed-use.
12. Where a Community Improvement Plan is in effect, Council may enter into agreements with a developer to reduce or waive development charges in accordance with section 29 of this by-law.

13. No development charges are payable in the following cases:
- a. where an existing dwelling is enlarged renovated or repaired;
  - b. where a maximum of two additional dwelling units are being created within an existing single detached dwelling;
  - c. where a maximum of one additional dwelling unit is being created in a semi-detached or townhouse, provided the gross floor area of the additional dwelling unit is less than or equal to the gross floor area of the dwelling unit already in the building;
  - d. where a maximum of one additional dwelling unit is being created in any other residential class of building, provided the gross floor area of the additional dwelling unit is less than or equal to the gross floor area of the smallest dwelling unit already in the building. For greater certainty, any other residential class of building includes a building where residential uses predominate; and
  - e. where a dwelling unit that existed and was used on the lands within 36 months of the enactment of this by-law is being replaced.

#### **Calculation of Development Charges - Non- Residential**

14. If the development is the enlargement of the gross floor area of an existing industrial, commercial or institutional building and the gross floor area is enlarged by 50% or less, there shall be no development charge.
15. If the development is the enlargement of the gross floor area of an existing industrial, commercial or institutional building and the gross floor area is enlarged by more than 50%, the amount of the development charge shall be based on the size of the enlargement that exceeds the exemption outlined in section 14 above.
16. Where a Community Improvement Plan is in effect, Council may enter into agreements with a developer to reduce or waive development charges in accordance with section 29 of this by-law.

#### **Exempt Buildings**

17. No Development Charge under Schedule B of this by-law shall be imposed with respect to:
  - a. Non-residential buildings used accessory to an agricultural operation;
  - b. Temporary buildings where the owner has completed an agreement with the City specifying the owner's obligation to remove the building;
  - c. Places of worship for religious uses that are exempt from Provincial taxes pursuant to the *Provincial Land Tax Act*;
  - d. A new industrial building or structure or the enlargement of an existing industrial building or structure;
  - e. Non-profit housing, as defined in this by-law;
  - f. Rental housing developments, as defined in this by-law, subject to a written agreement pursuant to s. 34 of this by-law.

#### **Redevelopment**

18. In accordance with sections 19, 20 and 21 of this by-law, where there is a redevelopment, conversion, demolition or change of use of a building or structure or part thereof, the development charges payable by the new or proposed development shall be credited by the amount to which the previous use of the building or structure was subject to development charges at the time this by-law was passed.
19. A credit shall not be warranted where a building or structure or part thereof was demolished and no building permit has been issued within 5 years from the date of issuance of the demolition permit.

20. The credit with respect to a redevelopment, conversion, demolition, or change of use of a building or structure or part thereof shall not exceed the amount of the development charges payable with respect to new or proposed development.
21. No credit shall be given 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 have been exempt from development charges in accordance with this by-law.

#### **Payment of Development Charges**

22. Development charges shall be calculated and payable in accordance with Section 26, Section 26.1 and Section 26.2 of the Act.
23. Except as otherwise provided in this by-law, development charges shall be calculated and payable in full in cash or certified cheque in Canadian funds or by credits granted by the Act, on the date that the first building permit is issued.
24. Except as otherwise provided in this by-law, a building permit shall not be issued until the development charge has been paid in full.
25. The City is required to apply equal deferral payment plans for certain types of development in accordance with Section 26(1) of the Act. Council may apply interest to any deferred development charge payments under this section at an interest rate equal to 3.5% annually.
26. Freezing of development charge rates may apply to a development in accordance with s. 26(2) of the Act. If a development meets the criteria for a freeze of the development charge rate as per the Act, Council may apply interest to the "frozen" rate at an interest rate equal to 3.5% annually.

#### **Written Agreements with the City**

27. Pursuant to the provisions of the Act, Council may enter into written agreements in regard to all matters authorized by the Act and general law.
28. The applicable provisions of this by-law may be varied in individual instances by the written agreements, as permitted by the Act.
29. Council has the power to enter into agreements to reduce or waive development charges that are payable under the Act and this by-law.
30. Agreements may give 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. The credit shall not exceed the service standard used in the calculation of the development charge, and no credit shall be charged to any development charges reserve fund prescribed in this by-law or exceed the proportion of the development charge related to that service, payable by the owner to the municipality.
31. Agreements may provide for all or any part of a development charge to be paid before or after it would otherwise be payable.
32. Front-ending agreements entered into under the provisions of s. 44 of the Act shall be deemed to be agreements under this section.
33. 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 passing of this by-law, the City shall apply that fee as a credit against the applicable development charge.
34. Where an exemption is provided to a rental housing development pursuant to section 17(f) of this by-law, the City and the owner shall enter into a written agreement which, among other terms and conditions, shall include a commitment by the owner to remain a rental housing development for a length of time to be specified in the agreement. The agreement shall be

registered on title. Any costs associated with the registration of the agreement are the responsibility of the owner.

35. Where a deferral of Development Charges is provided under Section 26(1) of the Act, the City and the Owner shall enter into a written agreement which, among other terms and conditions, shall include a commitment by the Owner to maintain the development as a type of development eligible for deferral for a length of time to be specified in the agreement. The agreement shall be registered on title. Any costs associated with the registration of the agreement are the responsibility of the Owner.

#### **Administration**

36. A certified copy of this by-law may be registered on title to any land to which the by-law applies.
37. This by-law shall be administered by the Treasurer of the City.

#### **Reserve Funds**

38. Monies received from payment of development charges shall be maintained in a separate reserve fund, and shall be used only to meet the growth-related net capital costs for which the development charge was levied under this by-law.
39. Where any development charge, 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 development charge reserve fund.
40. The Treasurer of the City shall, in each year, furnish to Council, a statement in respect of the reserve fund established hereunder for the prior year.

#### **Refunds**

41. Where this by-law or any development charge prescribed hereunder is amended or repealed either by order of the Local Planning Appeal Tribunal or by Council, the City shall forthwith pay the appropriate refund, calculated in accordance with the Act and Regulations passed under the Act.

#### **Schedules**

42. The following schedules to this by-law form an integral part of this by-law;
- a. Schedule "A" – Designated Municipal Services under this By-law;
  - b. Schedule "B" – City-Wide Development Charges
  - c. Schedule "C" – Area Specific Development Charges for the Sydenham Heights Development Area; and
  - d. Schedule "D" – Map of the Sydenham Heights Development Area.

#### **General**

43. This by-law comes into full force and effect upon the final passing thereof.
44. Unless repealed earlier, or unless the term of the by-law is extended by legislation, this by-law expires on March 1, 2024.
45. Upon this by-law coming into force, By-law No. 2019-199 is repealed.
46. 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 neuter gender.
47. 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.



- 48. If any provisions of this By-law conflicts with the Act and its regulations as a result of amendments pursuant to the *More Homes, More Choice Act, 2019* and/or *COVID-19 Economic Recovery Act, 2020*, then the Act and its regulations shall prevail as necessary.
- 49. For greater certainty, a conflict shall not apply pursuant to subsection 16.6 where a provision in this by-law is allowed to remain in effect for a prescribed period of time pursuant to the Act or its regulations as amended by the *More Homes, More Choice Act, 2019* and/or *COVID-19 Economic Recovery Act, 2020*.
- 50. This by-law shall be known as the "Development Charges By-law".

FINALLY PASSED AND ENACTED this 28<sup>th</sup> day of September, 2020

*Signature on file*

\_\_\_\_\_  
Mayor Ian C. Boddy

*Signature on file*

\_\_\_\_\_  
Briana M. Bloomfield, City Clerk

## Schedule A - Designated Municipal Services under this By-law

### **Schedule B: City-Wide Services**

- Indoor Recreation Services
- Roads and Related
- Stormwater Drainage and Control Services
- Wastewater Services
- Water Services

### **Schedule C: Sydenham Heights Area-Specific Services**

- Water and Wastewater Services

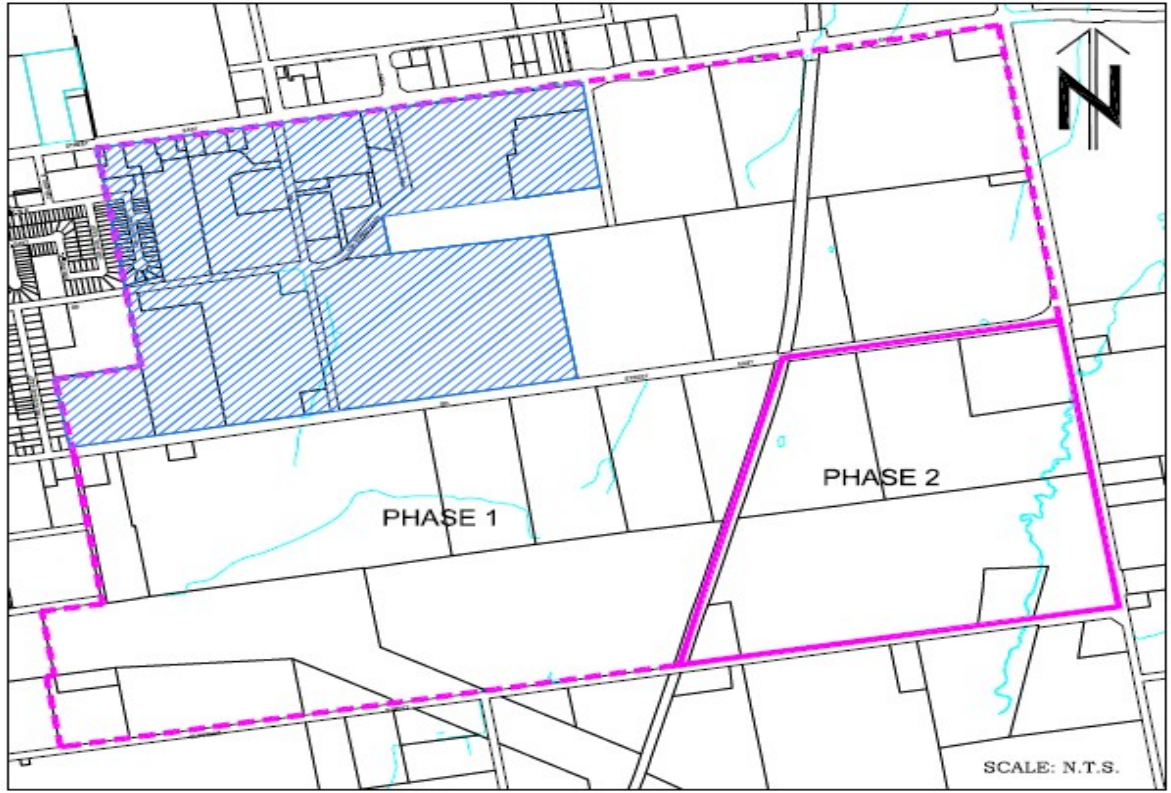
## Schedule B – City-Wide Development Charges

Service	Residential Charge by Dwelling Unit Type			Non-Residential Charge Per Sq.M.
	Single & Semi-Detached	Other Multiple	Apartment	
Indoor Recreation Services	\$3,700	\$2,878	\$2,275	\$0.00
Roads and Related Services	\$2,096	\$1,630	\$1,289	\$14.16
Stormwater Drainage and Control	\$34	\$27	\$21	\$0.23
Wastewater Services	\$918	\$714	\$564	\$8.18
Water Services	\$1,252	\$974	\$770	\$8.47
<b>TOTAL DEVELOPMENT CHARGE</b>	<b>\$8,000</b>	<b>\$6,223</b>	<b>\$4,919</b>	<b>\$31.04</b>

Schedule C – Area Specific Development Charges for the  
Sydenham Heights Development Area

Service	Charge By Unit Type			Non-Residential Charge per Square Metre
	Single & Semi-Detached	Other Multiples	Apartments	
Water and Wastewater Services	\$1,173	\$912	\$721	\$8.23
<b>Total Area-Specific Charge</b>	<b>\$1,173</b>	<b>\$912</b>	<b>\$721</b>	<b>\$8.23</b>

Schedule D - Map of Sydenham Heights Development Area



**SYDENHAM HEIGHTS SECONDARY PLAN AREA**

 AREA EXCLUDED FROM AREA SPECIFIC DEVELOPMENT CHARGE