

The Corporation of the City of Owen Sound

By-law No. 2023-106

A By-law to establish development charges for the City of Owen Sound and to repeal By-law No. 2020-112

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 arising from development of the area to which the by-law applies; and

WHEREAS on September 28, 2020, the Council of The Corporation of the City of Owen Sound (the "City") passed By-law No. 2020-112 to establish development charges for the City;

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 a development charge background study was prepared by Hemson Consulting Ltd. for the Corporation of the City of Owen Sound (the "City") and dated March 15, 2023, in accordance with section 10 of the Act; and

WHEREAS copies of the development charge background study and this proposed by-law were made available to the public on May 15, 2023 in accordance with subsections 10(4) and 12(1) of the Act; and

WHEREAS on May 29, 2023, 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 proposals at the said public meeting held on May 29, 2023; and

WHEREAS City Council has considered 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 City Council determined that no further public meetings are required under section 12 of the Act; and

WHEREAS on September 25, 2023, City Council passed Resolution No. R-230925-014 directing staff to bring forward the subject by-law for approval and repeal By-law No. 2020-112, in consideration of staff report CR-23-071, presented to the Corporate Services Committee on September 14, 2023;

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 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 apply to the extent that they are not in conflict with the definitions in the Act:

"Act" means the *Development Charges Act, 1997, S.O. 1997, c. 27*, as amended from time to time and includes the Regulations passed under the Act, as amended from time to time;

"Additional Residential Unit" means a separate dwelling unit containing a bathroom and separate cooking facilities and contained within the structure of a single detached, semi-detached or street-fronting townhouse dwelling or in a building or structure accessory to a single detached, semidetached or street-fronting townhouse dwelling;

"Apartment Dwelling" means any dwelling unit within a building containing more than three dwelling units where the units are connected by an interior corridor, including a stacked townhouse;

"Back to Back Townhouse" means any building that has three or more dwelling units, joined by common side and rear walls above grade, and where no dwelling unit is entirely or partially above another;

"Bedroom" means a habitable room within a dwelling unit, except a kitchen, bathroom, toilet room, storage room and den, which has a window or windows, skylights, translucent panels or glass area of an outside door that faces directly to the outside at least 0.15 metres above adjoining finished grade, or above an adjoining room, and that admits as much natural lights as would be transmitted through clear glass equal in area to 5 percent of the floor area of the room;

"Board" means a district school board or a school authority as defined in subsection 1(1) of the *Education Act*. For clarity, a Board does 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, and includes an air-supported structure;

"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", including hotels;

"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 the total areas of all 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 from 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 the parking and loading of vehicles; and
- c. where a building does not have any walls (except as expressly provided in clause (a) above), there is deemed to be no gross floor area;

"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 includes, without limiting the generality of the foregoing, places of worship, medical clinics, communal housing such as student residences and special care facilities;

"Multiple Dwelling" means residential buildings not including single detached dwellings, semi-detached dwellings or apartment dwellings; which may include duplexes, back to back townhouses, clustered townhouses or street fronting townhouses;

"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 35;

"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;

"Stacked Townhouse" means building that has three or more dwelling units, joined by common side walls with dwelling units entirely or partially above another;

"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; and

"Townhouse" means a residential dwelling unit attached to other units by a common sidewall, including a back to back townhouse, where the number of attached units is no less than three.

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

Imposition of Development Charges

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

Application of this By-Law

5. This by-law applies to all lands within the City.
6. 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*.
7. 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 install or pay for local services as the approval authority or Council may require.

Calculation of Development Charges - General

8. Development charges are calculated in accordance with Schedule "B" and Schedule "C".

Indexing of the Development Charge

9. 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 Uses

10. Development charges apply to each dwelling unit in every development, whether single-use or mixed-use.
11. Pursuant to subsections 2(3), (3.1), (3.2) and (3.3) of the Act, no development charges are payable with respect to the following:
 - a. the enlargement, renovation, or repair of an existing dwelling unit;
 - b. additional units in an existing rental residential building;
 - c. the creation of additional residential units as prescribed by table in section 2(1) of O.Reg 82/98 (the Regulation), subject to any restrictions set out in the Regulation, in prescribed classes of existing residential buildings or prescribed structures ancillary to existing residential buildings as set out in the Regulation; or
 - d. the creation of a second and third additional dwelling unit and a new ancillary structure in prescribed classes of proposed new residential buildings as set out in the Regulation, including structures ancillary to dwellings, subject to any restrictions as set out in the Regulation.
12. In the case of rental housing development, as defined in the Act, the development charges payable are reduced:
 - a. by 25 per cent for a residential unit intended for use as a rented residential premises with three or more bedrooms;
 - b. by 20 per cent for a residential unit intended for use as a rented residential premises with two bedrooms;
 - c. by 15 per cent for a residential unit intended for use as a rented residential premises not referred to in subsection 12 a. and 12 b.

Calculation of Development Charges - Non-Residential Uses

13. 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 is no development charge.
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 more than 50%, the amount of the development charge is based on the size of the enlargement that exceeds the exemption outlined in section 13 above.
15. In the case of the non-residential portion of a mixed use development, the development charge with respect to the uses of any land, building or structure is calculated in accordance with Schedule "B" and Schedule "C".

Exempt Buildings

16. No Development Charge under Schedule B of this by-law are 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 development, as defined in this by-law, provided:
 - i. the development received approval for a zoning by-law amendment under section 34 of the *Planning Act* or site plan approval under subsection 41(4) of the *Planning Act* prior to March 01, 2026; and
 - ii. the first building permit is issued for the development within two years of the development receiving approval under subsection 16(f)(ii) above; and
 - iii. subject to a written agreement pursuant to section 35 of this by-law.

Redevelopment

17. In accordance with sections 21, 22 and 23 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 will 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.
18. A credit will 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.
19. The credit with respect to a redevelopment, conversion, demolition, or change of use of a building or structure or part thereof may not

exceed the amount of the development charges payable with respect to new or proposed development.

20. No credit will 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

21. Development charges will be calculated and payable in accordance with Section 26, Section 26.1 and Section 26.2 of the Act.
22. Except as otherwise provided in this by-law, development charges will 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.
23. Except as otherwise provided in this by-law, a building permit will not be issued until the development charge has been paid in full.
24. 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 up to the maximum interest rate prescribed by section 26.3 of the Act.
25. Freezing of development charge rates may apply to a development in accordance with section 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 up to the maximum interest rate prescribed by section 26.3 of the Act.

Written Agreements with the City

26. 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.
27. The applicable provisions of this by-law may be varied in individual instances by the written agreements, as permitted by the Act.
28. Agreements may give credit to the owner equal to the reasonable cost of providing services in addition to, or of greater size or capacity, than would be required under this by-law. The credit may not exceed the service standard used in the calculation of the development charge, and no credit will 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.
29. Agreements may provide for all or any part of a development charge to be paid before or after it would otherwise be payable.
30. Front-ending agreements entered into under the provisions of s. 44 of the Act are deemed to be agreements under this section.
31. This by-law prevails 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.

32. Where an exemption is provided to a rental housing development pursuant to section 17(f) of this by-law, the City and the owner will enter into a written agreement which, among other terms and conditions, will 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 will be registered on title. Any costs associated with the registration of the agreement are the responsibility of the owner.
33. Where a deferral of Development Charges is provided under Section 26(1) of the Act, the City and the Owner will enter into a written agreement which, among other terms and conditions, will 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 will be registered on title. Any costs associated with the registration of the agreement are the responsibility of the Owner.

Administration

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

Reserve Funds

36. Monies received from payment of development charges will be maintained in a separate reserve fund, and will be used only to meet the growth-related net capital costs for which the development charge was levied under this by-law.
37. Where any development charge, or part thereof, remains unpaid after the due date, the unpaid amount will 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 will be credited to the development charge reserve fund.
38. 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

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

Schedules

40. 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

41. This by-law comes into full force and effect upon the final passing thereof.

- 42. Unless repealed earlier, or unless the term of the by-law is extended by legislation, this by-law expires on [MONTH, DAY], 2033.
- 43. Upon this by-law coming into force, By-law No. 2020-112 is repealed.
- 44. 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.
- 45. Any portion of this by-law found to be invalid will be severed, and the balance of the by-law shall be deemed to be valid and enforceable and will be construed without reference to the invalid portions.
- 46. If any provisions of this By-law conflicts with the Act and its regulations, then the Act and its regulations will prevail as necessary.
- 47. This by-law may be referred to as the "Development Charges By-law".

FINALLY PASSED AND ENACTED this 23rd day of October 2023.



Mayor Ian C. Boddy



Briana M. Bloomfield, City Clerk

Schedule A - Designated Municipal Services under this By-law

Schedule B: City-Wide Services

- Library Services
- Fire Protection Services
- Police Services
- Indoor Recreation
- Outdoor Recreation
- Transit Services
- Waste Collection
- Services Related to a Highway – 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	Multiple	Apartment	
Indoor Recreation	\$3,429	\$3,017	\$2,057	\$0.00
Services Related To A Highway - Roads And Related	\$7,680	\$6,759	\$4,608	\$32.36
Wastewater Services	\$1,319	\$1,161	\$791	\$4.90
Water Services	\$3,094	\$2,722	\$1,856	\$12.46
Stormwater Drainage And Control	\$699	\$615	\$420	\$2.76
TOTAL DEVELOPMENT CHARGE	\$16,221	\$14,274	\$9,732	\$52.48

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

Service	Residential Charge by Dwelling Unit Type			Non-Residential Charge Per Sq.M.
	Single & Semi-Detached	Multiple	Apartment	
Water and Wastewater	\$1,456	\$1,281	\$874	\$15.32
TOTAL AREA-SPECIFIC DEVELOPMENT CHARGE	\$1,456	\$1,281	\$874	\$15.32

Schedule D – Map of Sydenham Heights Development Area



SYDENHAM HEIGHTS SECONDARY PLAN AREA

 AREA EXCLUDED FROM AREA SPECIFIC DEVELOPMENT CHARGE