

**THE CORPORATION OF THE TOWN OF HAWKESBURY
BY-LAW N° 16-2020**

**A By-law to Establish Development
Charges for the Corporation of the Town of
Hawkesbury**

WHEREAS Section 2(1) of the *Development Charges Act, 1997, S.O. 1997, c. 27* (hereinafter called the Act) enables the Council of a municipality to pass by-laws for the imposition of development charges against land located in the municipality for increased capital costs required because of the increased need for services arising from development in the area to which the by-law applies;

AND WHEREAS the Council of the Corporation of the Town of Hawkesbury, at its meeting of December 16th, 2019, approved a report entitled Town of Hawkesbury 2019 Development Charges Background Study;

AND WHEREAS the Council has given notice in accordance with Section 12 of the *Development Charges Act, 1997* of its development charges proposal and held a public meeting on February 18, 2020;

AND WHEREAS the Council has heard all persons who applied to be heard in objection to, or in support of, the development charges proposal at such public meeting and provided a subsequent period for written communications to be made;

AND WHEREAS the Council, approved the Town of Hawkesbury 2019 Development Charges Background Study on December 16th, 2019, directed that development charges be imposed on land under development or redevelopment within the geographical limits of the municipality as hereinafter provided.

NOW THEREFORE, the Council of the Corporation of the Town of Hawkesbury enacts as follows:

1. DEFINITIONS

In this by-law,

- 1.1 "Act" means the *Development Charges Act, 1997, S.O. 1997, c. 27, as amended*;
- 1.2 "administration service" means any and all development-related studies carried out by the municipality which are with respect to eligible services for which a development charge by-law may be imposed under the Act;
- 1.3 "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;
- 1.4 "agricultural use" means a bona fide farming operation;
- 1.5 "apartment unit" means any residential 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;
- 1.6 "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;
- 1.7 "benefiting area" means an area defined by map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;
- 1.8 "board of education" means a board defined in s.s. 1(1) of the *Education Act*;
- 1.9 "Building Code Act" means the *Building Code Act, 1992, S.O. 1992, c.23, as amended*;
- 1.10 "capital costs" means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or under an agreement,
 - (a) to acquire land or an interest in land, including a leasehold interest,
 - (b) to improve land,
 - (c) to acquire, lease, construct or improve buildings and structures,

- (d) to acquire, lease, construct or improve facilities including:
 - (i) rolling stock, furniture and equipment with an estimated useful life of seven years or more,
 - (ii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act, 1984, S. 0, 1984, c. 57*,
 - (iii) furniture and equipment, other than computer equipment,
- (e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d), required for the provision of services designated in this by-law within or outside the municipality, including interest on borrowing for those expenditures under clauses (a), (b), (c) and (d) that are growth-related;

- 1.11 “commercial” means any use of land, structures or buildings for the purposes of buying or selling commodities and services, but does not include industrial or agricultural uses, but does include hotels, motels, motor inns and boarding, lodging and rooming houses;
- 1.12 “Council” means the Council of the Corporation of the Town of Hawkesbury;
- 1.13 “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 the effect of increasing the size of usability thereof, and includes redevelopment;
- 1.14 “development charges” means a charge imposed pursuant to this by-law;
- 1.15 “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;
- 1.16 “existing” means existing as of the date of the passing of this By-law;
- 1.17 “grade” means the average level of finished ground adjoining a building at all exterior walls;
- 1.18 “gross floor area” means

- (a) in the case of a residential building or structure, 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 any other dwelling unit or other portion of a building; and
- (b) 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:
 - (i) a room or enclosed area within the building or structure above or below that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
 - (ii) loading facilities above or below grade; and
 - (iii) 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 “hospital” means land, buildings, or structures used, or designed or intended for use as defined in the *Public Hospitals Act, R.S.O. 1990, c. P. 40, as amended*;

1.20 “industrial” means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk 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;

1.21 “institutional” means land, buildings, structures or any part thereof used by any organization, group or association for promotion of charitable, educational or benevolent objectives and not for profit or gain. For the purposes of s.s.7(2) herein, means development of a building or structure

intended for use,

- (a) as a long-term care home within the meaning of subsection 2 (1) of the *Long-Term Care Homes Act, 2007*;
- (b) as a retirement home within the meaning of subsection 2 (1) of the *Retirement Homes Act, 2010*;
- (c) by any of the following post-secondary institutions for the objects of the institution:
 - (i) a university in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario,
 - (ii) a college or university federated or affiliated with a university described in subclause (i), or
 - (iii) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*;
- (d) as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion; or
- (e) as a hospice to provide end of life care.;

1.22 “Local Board” means a school board, public utility, commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, 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, including school purposes, of the municipality or any part or parts thereof;

1.23 “local services” means those services, facilities or things which are under the jurisdiction of the Town of Hawkesbury 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*, or any successor thereof;

1.24 “multiple dwellings” means all dwellings other than single-detached, semi-detached and apartment unit dwellings;

1.25 “Municipality” means The Corporation of the Town of Hawkesbury;

1.26 “non-profit housing” means development of a building or structure intended for use as residential premises 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 *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 cooperative that is in good standing under the *Co-operative Corporations Act*;
- 1.27 “non-residential use” means land, buildings, or structures or portions thereof used, or designed or intended for a use other than a residential use;
- 1.28 “Official Plan” means the Official Plan adopted for the municipality, as amended and approved;
- 1.29 “owner” means the owner of land or a person who has made an application for approval for the development of land upon which a development charge is imposed;
- 1.30 “Planning Act” means the *Planning Act, 1990, R.S.O. 1990, c.P.13, as amended*;
- 1.31 “rate” means the interest rate established weekly by the Bank of Canada based on Treasury Bills having a term of 91 days;
- 1.32 “regulation” means any regulation made pursuant to the Act;
- 1.33 “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;
- 1.34 “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;
- 1.35 “residential use” means the use of a building or structure or portion thereof for one or more dwelling units. This also includes a dwelling unit on land

that is used for agricultural use;

- 1.36 "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;
- 1.37 "semi-detached dwelling" means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but not other parts, attached or another dwelling unit where the residential unit is not connected by an interior corridor;
- 1.38 "service" means a service designed in Schedule "A" to this By-law, and "services" shall have a corresponding meaning;
- 1.39 "servicing agreement" means an agreement between a landowner and the Municipality relative to the provision of municipal services to specified land within the Municipality;
- 1.40 "single-detached dwelling" means a dwelling containing only a dwelling unit, or a dwelling unit and an accessory apartment, and not attached to another structure;
- 1.41 "Zoning By-Law" means the Zoning By-Law of the Municipality or any successor thereof passed pursuant to Section 34 of the *Planning Act*.

2. SCHEDULE OF DEVELOPMENT CHARGES

- 2.1 Subject to the provisions of this by-law, development charges against land shall be calculated and collected in accordance with the base rates set out in Schedule "B-1", which relate to the services set out in Schedule "A".
- 2.2 The development charges with respect to the use of any land, buildings or structures shall be calculated as follows:
- (a) in the case of residential development, 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, based upon the number and type of dwelling

- units;
- (b) in the case of non-residential development, including the non-residential uses in a mixed-use building or structure, based upon the gross floor area of such development;

2.3 Council hereby determines that the development of land, buildings or structures for residential or non-residential uses will require the provision, enlargement, expansion, or improvement of the services referenced in Schedule "A".

3. APPLICABLE LANDS

- 3.1 Subject to Section 6, this by-law applies to all lands in the Municipality, whether or not the land or use is exempt from taxation under Section 3 of the *Assessment Act, 1990, c.A. 31*.
- 3.2 Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to land that is owned by and used for purposes of:
 - (a) the Municipality, or any local board thereof;
 - (b) the Corporation of the United Counties of Prescott and Russell, or any local board thereof; and
 - (c) a board of education as defined in subsection 1(1) of the *Education Act*.

4. APPLICATION OF CHARGES

- 4.1 Development charges shall be imposed on all lands, buildings, or structures that are developed for residential or non-residential uses if the development requires:
 - (a) the passing of a zoning by-law or of an amendment to a zoning by-law 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;
 - (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 50 of the *Condominium Act, R.S.O. 1990, Chap. C.26, as amended*, or any successor thereof; or
- (g) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

4.2 Subsection (2) shall not apply in respect of local services as described in s.s.59(2) (a) and (b) of the Act;

5. MULTIPLE CHARGES

5.1 Where two or more of the actions described in Section 4(1) are required before land to which a development charge applies can be developed, only one development charge shall be calculated and collected in accordance with the provisions of this by-law.

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

6. EXEMPTIONS

6.1 Section 2 of this by-law shall not apply to that category of exempt development described in s.s. 2(3) of the Act, namely:

- (a) the enlargement of an existing dwelling unit;
- (b) the creation of one or two additional dwelling units in an existing single-detached dwelling, or ancillary to it, provided the total gross floor area of the additional one or two units does not exceed the gross floor area of the existing dwelling unit; or
- (c) the creation of one additional dwelling unit in, or ancillary to, any other type of existing residential building, provided that:
 - (i) in the case of a semi-detached dwelling, the gross floor area of the additional dwelling unit does not exceed the gross

- floor area of the existing dwelling unit already contained in the residential dwelling, and
- (ii) in the case of all other types of existing residential buildings, the gross floor area of the additional dwelling unit does not exceed the gross floor area of the smallest existing dwelling unit already contained in the residential building.
- 6.2 Section 2 of this by-law shall not apply to that category of exempt development described in s.4 of the Act, and s.1 of O.Reg. 82/98, namely:
- (a) the enlargement of the gross floor area of an existing industrial building, if the gross floor area is enlarged by 50 percent or less;
 - (b) for the purpose of (a), the terms “gross floor area” and “existing industrial building” shall have the same meaning as those terms have in O.Reg. 82/98 under the Act; and
 - (c) notwithstanding subsection (a), if the gross floor area is enlarged by more than 50 per cent, development charges shall be payable and collected and the amount payable shall be calculated in accordance with s.4(3) of the Act.
- 6.3 Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to Industrial development.

7. TIMING OF CALCULATION AND PAYMENT

- 7.1 Development Charges are due and payable in full to the Municipality on the date the first building permit is issued for any land, buildings, or structures affected by the applicable development charge and a building permit with respect to a building or structure shall be withheld where the applicable development charge has not been paid pursuant to Section 28 of the Act.
- 7.2 Notwithstanding Subsection 7(1), Development Charges for rental housing and institutional developments are due and payable in 6 instalments commencing with the first instalment payable on the date of occupancy, and each subsequent instalment, including interest, payable on the anniversary date each year thereafter.

- 7.3 Notwithstanding Subsection 7(1), Development Charges for non-profit housing developments are due and payable in 21 instalments commencing with the first instalment payable on the date of occupancy, and each subsequent instalment, including interest, payable on the anniversary date each year thereafter.
- 7.4 Where the development of land results from the approval of a Site Plan or Zoning Bylaw amendment received on or after January 1, 2020, the Development Charges under Subsections 7(1), 7(2) and 7(3) shall be calculated on the base rates set out in Schedule "B-1" on the date of the planning application. Where both planning applications apply Development Charges under Subsections 7(1), 7(2) and 7(3) shall be calculated on the base rates set out in Schedule "B-1" on the date of the planning application
- 7.5 Subject to Section 27 of the Act, Council, at its discretion may, enter into an agreement for payment of development charges in whole or under a payment schedule before or after the date of the issuing of the building permit.
- 7.6 If the Development Charge or any part thereof imposed by the Municipality remains unpaid after the due date, in the absence of an agreement to address the amount unpaid per article 2.6.1 (a) or Subsection (2), then the amount unpaid shall be added to the tax roll as taxes as prescribed by Section 32 of the Act.

8. SERVICE STANDARDS

- 8.1 The approved service standards for the Municipality are those contained in the Development Charges Background Study.

9. SERVICES IN LIEU

- 9.1 Council may authorize an owner, through an agreement under Section 38 of the Act, to substitute the whole or such part of the development charges applicable to the owner's development as may be specified in an agreement by the provision at the sole expense of the owner, of services in lieu. Such agreement shall further specify that where the owner provides services in lieu in accordance with the agreement, the Council

shall give to the owner a credit against the development charges otherwise applicable to the development, equal to the reasonable cost to the owner of providing the services in lieu, provided such credit shall not exceed the total development charge payable by an owner to the municipality.

10. DEVELOPMENT CHARGE CREDITS

10.1 Despite any other provisions of this By-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within five (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 Section 2(2) by the number, according to the type, of dwelling units that have been or will be demolished or converted to another principal use; and
- (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 greater of the applicable development charges under Section 2(2) by the gross floor area that has been or will be demolished or converted to another principal use;

10.2 No redevelopment credit shall be made in excess of the development charges payable for a redevelopment.

11. BY-LAW REGISTRATION

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

12. RESERVE FUNDS

- 12.1 Monies received from payment of development charges shall be maintained in a separate reserve funds, and shall be used only to meet the growth-related net capital costs for which the development charge was levied under this by-law.
- 12.2 Council directs the Treasurer to divide the reserve fund(s) created hereunder into the separate subaccounts in accordance with the service categories set out in Schedule "A" to which the development charge payments shall be credited in accordance with the amounts shown, plus interest earned thereon.
- 12.3 Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.
- 12.4 Where any unpaid development charges are collected as taxes under Subsection (3), the monies so collected shall be credited to the development charge reserve fund or funds referred to in Subsection (1).
- 12.5 The Treasurer is hereby directed to prepare an annual financial statement for the development charges reserve funds as prescribed under Section 12 of Ontario Regulation 82/98 and to submit the statement for Council's consideration and within 60 days thereafter, to submit such statement to the Minister of Municipal Affairs and Housing.

13. BY-LAW AMENDMENT OR REPEAL

- 13.1 Where this by-law or any development charge prescribed thereunder is amended or repealed by order of the Local Planning Appeals Tribunal or by resolution of the Council, the Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal.
- 13.2 Refunds that are required to be paid under Subsection (1) shall be paid to the registered owner of the land on the date on which the refund is paid.
- 13.3 Refunds that are required to be paid under Subsection (1) shall be paid

with interest to be calculated as follows:

- (a) interest shall be calculated from the date on which the overpayment was collected to the day on which the refund is paid;
- (b) interest shall be paid at the Bank of Canada rate in effect on the date of enactment of this by-law.

14. DEVELOPMENT CHARGE SCHEDULE INDEXING

14.1 The development charges referred to in Schedule “B-1” shall be adjusted annually, without amendment to this by-law, on January 1st of each year, in accordance with Statistics Canada *Table 18-10-0135-01 Building construction price indexes, by type of building*.

15. BY-LAW ADMINISTRATION

15.1 This by-law shall be administered by the Treasurer.

16. SCHEDULES TO THE BY-LAW

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

- Schedule “A” – Designated Municipal Services Under this By-law
- Schedule “B-1” – Schedule of Development Charges

17. SEVERABILITY

17.1 If, for any reason, any provision, section, subsection, or paragraph of this by-law is held to be invalid, it is hereby declared to be the intention of the Council that all of 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.

18. SHORT TITLE

18.1 This by-law may be cited as the Development Charge By-law.

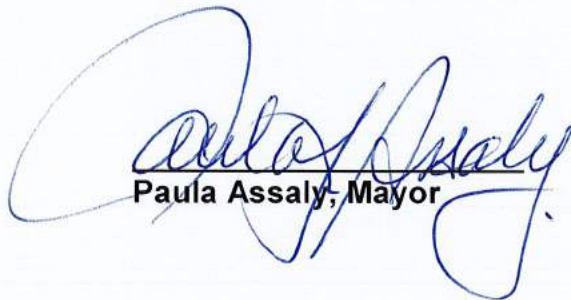
19. DATE BY-LAW EFFECTIVE

19.1 This by-law shall come into force and effect on September 1st, 2020.

20. DATE BY-LAW EXPIRES

20.1 This by-law will expire at 12:01 AM on September 1st, 2025 unless it is repealed by Council at an earlier date.

**READ A FIRST, SECOND AND ADOPTED UPON THIRD READING
THIS 8th DAY OF JUNE 2020.**



Paula Assaly, Mayor



Christine Groulx, Clerk

SCHEDULE "A" TO BY-LAW N° 16-2020
THE CORPORATION OF THE TOWN OF HAWKESBURY

Designated Municipal Services Under this By-law

Municipal-wide Services

1. Roads & Related
2. Fire Protection
3. Administration – Studies
4. Wastewater
5. Water

**SCHEDULE "B-1" TO BY-LAW N° 16-2020
THE CORPORATION OF THE TOWN OF HAWKESBURY**

**Schedule of Development Charges established for
the period of September 1st, 2020 to September 1st, 2023**

Service	RESIDENTIAL				NON-RESIDENTIAL (per sq. ft. of Gross Floor Area)
	Single and Semi- Detached Dwelling	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Other Multiples	
Municipal Wide Services:					
Roads & Related Services	1,481	1,145	861	1,408	0.86
Fire Protection Services	89	69	52	85	0.05
D.C. Background Studies	78	60	45	74	0.04
Total Municipal Wide Services	1,648	1,274	958	1,567	0.95
Urban Services					
Wastewater Services	1,385	1,071	806	1,317	0.83
Water Services	624	482	363	593	0.37
Total Urban Services	2,009	1,553	1,169	1,910	1.20
GRAND TOTAL URBAN AREA	3,657	2,827	2,127	3,477	2.15
<hr/>					
CHARGES FOR SEPT. 1, 2020 TO AUGUST 31, 2021 (1/3 (33%) OF GRAND TOTAL URBAN AREA)	\$ 1,219	\$ 942.33	\$ 709	\$ 1,159	\$ 0.71
CHARGES FOR SEPT. 1, 2021 TO AUGUST 31, 2022 (2/3 (66%) OF GRAND TOTAL URBAN AREA)	\$ 2,438	\$ 1,884.67	\$ 1,418	\$ 2,318	\$ 1.43
CHARGES FOR SEPT. 1, 2022 TO AUGUST 31, 2023 (3/3 (100%) OF GRAND TOTAL URBAN AREA)	\$ 3,657	\$ 2,827	\$ 2,127	\$ 3,477	\$ 2.15