

By-law 2019-63, OPTION A

The Corporation of the Town of Tecumseh

By-Law Number 2019-63

A by-law for the imposition of development charges

Whereas the Development Charges Act, 1997 (hereinafter called "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 need for services;

And whereas the Corporation of the Town of Tecumseh, as required by Section 10 of the Act, has undertaken and completed a development charge background study regarding the anticipated amount, type and location of development; the increase in needs for services; estimated capital costs to provide for such increased needs, including the long-term capital and operating costs for capital infrastructure required for the services;

And whereas as required by Section 11 of the Act, this by-law is being enacted within one year of the June 13, 2019 completion of the said Development Charge Background Study, titled Town of Tecumseh Development Charge Background Study, June 13, 2019 prepared by Watson & Associates Economists Ltd;

And whereas in advance of passing this by-law the Council of The Corporation of the Town of Tecumseh has given notice of and held a public meeting on July 9, 2019, in accordance with the Development Charges Act, 1997 regarding its proposals for this development charges by-law;

And whereas the Council of The Corporation of the Town of Tecumseh has heard all persons who applied to be heard no matter whether in objection to, or in support of, the said by-law;

Now Therefore the Council of The Corporation of The Town of Tecumseh Enacts as follows:

1. DEFINITIONS

1.1. In this by-law,

- a) **"Act"** means the Development Charges Act, S.O. 1997, c. 27, as amended, or any successor thereto;
- b) **"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;
- c) **"Apartment unit"** means any residential dwelling unit within a building containing five 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;
- d) **"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;

- e) **"Benefitting area"** means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;
- f) **"Board of education"** means a board defined in subsection 1(1) of the Education Act, or any successor thereto;
- g) **"Building Code Act"** means the 'Building Code Act, 1992, as amended, or any successor thereto;
- h) **"Capital cost"** means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or by others on behalf of, and as authorized by the municipality or local board
 - to acquire land or an interest in land, including a leasehold interest;
 - to improve land;
 - to acquire, lease, construct or improve buildings and structures;
 - to acquire, lease, construct or improve facilities including,
 - rolling stock with an estimated useful life of seven years or more,
 - furniture and equipment, other than computer equipment, and
 - materials acquired for circulation, reference or information purposes by a library board as defined in the Public Libraries Act,
 - to undertake studies in connection with any matters under the Act and any of the matters referred to in clauses (a) to (d) including the development charges background study 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;
- i) **"Commercial"** means any non-residential development not defined under "institutional" or "industrial";
- j) **"Council"** means the Council of the municipality;
- k) **"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;
- l) **"Development charge"** means a charge imposed pursuant to this By-law;
- m) **"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;
- n) **"Farm building"** means that part of a bona fide farm operation encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use;

- o) **"Grade"** means the average level of finished ground adjoining a building or structure at all exterior walls;
- p) **"Gross floor area"** means the total floor 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 units 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 services the building;
 - Loading facilities above or below grade;
 - 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;
- q) **"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;
 - r) **"Institutional"** means lands, buildings or structures used or designed or intended for use by an organized body, society or religious groups - 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;
 - s) **"Local board"** has the same definition as defined in the Development Charges Act, S.O. 1997;
 - t) **"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 R.S.O. 1990, as amended or any successor thereto;
 - u) **"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;
 - v) **"Multiple dwellings"** means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment house dwellings;
 - w) **"Municipality"** means The Corporation of the Town of Tecumseh;
 - x) **"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;

- y) **"Nursing home"** means a residential building or the residential portion of a mixed-use building licensed as a nursing home by the Province of Ontario;
- z) **"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;
- aa) **"Regulation"** means any regulation made pursuant to the Act;
- bb) **"Residential use"** means lands, buildings or structures of any kind whatsoever used, designed or intended to be used as living accommodations for one or more individuals;
- cc) **"Retirement home or lodge"** means a residential building or the residential portion of a mixed-use building which provides accommodation primarily for retired persons or couples where each private bedroom or living accommodation has a separate private bathroom and separate entrance from a common hall but where common facilities for the preparation and consumption of food are provided, and common lounges, recreation rooms and medical care facilities may also be provided;
- dd) **"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 no other parts, attached or another dwelling unit where the residential units are not connected by an interior corridor;
- ee) **"Services" (or "service")** means those services set out in Schedule "A" to this By-law;
- ff) **"Servicing agreement"** means an agreement between a landowner and the municipality relative to the provision of municipal services to specified lands within the municipality;
- gg) **"Single detached dwelling unit"** means a residential building consisting of one dwelling unit and not attached to another structure and includes mobile homes;
- hh) **"Special care/ special need dwelling"** means any of a building containing two or more dwelling units, which units have a common entrance from street level, where the occupants have the right to use in common, halls, stairs, yards, common rooms and accessory buildings, which may or may not have exclusive sanitary and/or culinary facilities that is designed to accommodate persons with special needs, including independent permanent living arrangements, where support services such as meal preparation, grocery shopping, laundry, housekeeping, nursing, respite care and attendant services are provided at various levels and includes retirement homes and lodges, nursing homes, charitable homes, group homes (including correctional group homes) and garden suite.

2. DESIGNATION OF SERVICES

2.1. The categories of services for which development charges are imposed under this bylaw are as follows:

- a) services related to a highway

- b) fire protection
- c) police
- d) library
- e) outdoor recreation
- f) indoor recreation
- g) administration
- h) water, and
- i) wastewater

2.2. Components of the services designated in Subsection 2.1 are described in Schedule "A".

3. 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 Subsection 3.2; and
- b) the development of the lands requires any of the approvals set out in S.S. 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 the Town of Tecumseh.

- a) The Development Charges described in Schedule "B-1" and "B-3" to this by-law as "Municipal Wide" shall be calculated and collected on all lands in the geographic area of the Town of Tecumseh
- b) The Development Charges described in Schedule "B-2" to this by-law as "Urban Area Charges" shall be calculated and collected only in those areas as delineated in the Town of Tecumseh Urban Service Area, as shown in Schedule "C-1" to this bylaw

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

- a) the Town of Tecumseh or a "local board" thereof;
- b) a "board of education" as defined in Section 1(1) of the Education Act, R.S.O. 1990;
- c) the County of Essex or a "local board" thereof.

Approvals for Development

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,
 - 1) the passing of a zoning by-law or an amendment to a zoning by-law under Section 34 of the Planning Act, R.S.O. 1990;
 - 2) the approval of a minor variance under Section 45 of the Planning Act, S.O. 1990;
 - 3) a conveyance of land to which a by-law passed under Subsection 50(7) of the Planning Act, R.S.O. 1990, applies;

- 4) the approval of a plan of subdivision under Section 51 of the Planning Act;
 - 5) a consent under Section 53 of the Planning Act;
 - 6) the approval of a description under Section 50 of the Condominium Act, R.S.O. 1990; or
 - 7) the issuing of a permit under the Building Code Act S.O. 1990, 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.

Exemptions

3.5. Notwithstanding the provisions of this by-law, development charges shall not be imposed with respect to:

- a) the development of non-residential farm buildings constructed for bona fide farming uses;
- b) an enlargement of the gross floor area of an industrial building in accordance with Section 4 of the Act, where gross floor area is enlarged by 50% or less, the amount of the development charge in respect of the enlargement is 0; if the gross floor area is enlarged by more than 50 per cent the amount of the development charge in respect of the enlargement is the amount of the development charge that would be payable multiplied by the fraction determined as follows:
 - 1) Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement.
 - 2) Divide the amount determined under paragraph 1) by the amount of the enlargement

Pursuant to 3.5 (b) of this by-law, the total eligible gross floor area exemption for the enlargement of an industrial building provided for by this section shall be fifty percent of:

- i. the gross floor area that existed prior to the first enlargement for which an exemption from the payment of development charges was eligible to be granted pursuant to this By-law or any previous Town of Tecumseh Development Charges By-Law enacted pursuant to the Development Charges Act, 1997, as amended or its predecessor legislation; or
- ii. the gross floor area of the existing industrial building where there has not been an enlargement in accordance with item i. above.

Where the total eligible exempt gross floor area is not constructed as part of an enlargement then the difference between the total eligible exempt floor area and the floor area constructed as part of the enlargement shall remain as a credit to be

applied to subsequent enlargements until the total eligible exempt gross floor area has been constructed; or

- c) the issuance of a building permit in accordance with Section 2(3) of the Act.

Amount of Charges

Residential

3.6. Residential

- 1) Subject to Section 5.1, the development charges described in Schedules "B-1", "B-2", and "B-3", to this by-law shall be imposed on residential uses of lands, buildings or structures, including dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use building or structure, according to the type of residential unit, and calculated with respect to each of the services according to the type of residential use.

Non-Residential

3.7. Commercial/Institutional Uses

- 1) Subject to Section 5.1, the development charges described in Schedules "B-1", "B-2", and "B-3", to this by-law shall be imposed on commercial/institutional uses of lands, buildings or structures, and, in the case of a mixed use building or structure, on the non-residential uses in the mixed use building or structure, and calculated with respect to each of the services according to the gross floor area of the non-residential use.

3.8. Industrial Uses

- 1) Subject to Section 5.1, the development charges described in Schedules "B-1", "B-2", and "B-3", to this by-law shall be imposed on industrial uses of lands, buildings or structures, and, in the case of a mixed use building or structure, on the non-residential uses in the mixed use building or structure, and calculated with respect to each of the services according to the gross floor area of the non-residential use

Reduction of Development Charges Where Redevelopment

3.9. In the case of land where a building permit is being issued for the construction of a residential or non-residential building or structure on the land subsequent to the demolition of all or part of a residential or non-residential building or structure on the land, the development charge as calculated in conformity with the requirements of this By-law shall apply, however:

- 1) A credit shall be due to an Owner, upon the finalization of the building permit for the construction of a residential or non-residential building or structure on the Owner's land provided that the finalization of the building permit occurs within the six years immediately subsequent to the date of the issuance of the demolition permit;
- 2) Where a credit is due in accordance with the provisions of Subsection 1 and the development or redevelopment involved the

demolition of a residential building or structure then the credit shall be calculated by multiplying the number of dwelling units that were demolished by the applicable residential development charge in place at the time the development charge was paid;

- 3) Where a credit is due in accordance with the provisions of Subsection 1 and the development or redevelopment involved the demolition of a non-residential building or structure then the credit shall be calculated by multiplying the gross floor area demolished by the applicable non-residential development charge in place at the time the development charge was paid;
- 4) Any credit due shall become payable to the Owner immediately upon the successful completion of the final inspection for the building or structure constructed on the lands provided that the finalization of the permit occurs within the six-year limit contemplated by Subsection 1, and in no case shall a credit exceed the amount of the development charge that was paid at the time the building permit was issued for the replacement building or structure;
- 5) Notwithstanding the timing of the credit anticipated by Subsection 1, where the Town can reasonably anticipate that a credit will be due to an Owner in accordance with the provision of Subsection 1, then the Town, at the Town's sole discretion, may defer the payment of that portion of the applicable development charge (the "deferred development charge") that is in an amount equal to the anticipated credit. Upon the Owner qualifying for the credit in accordance with the terms of Subsection 1; the deferred development charge shall be deemed to have been paid. Where the Owner becomes ineligible for a credit in accordance with the terms of Subsection 1, the deferred development charge shall become payable immediately. A deferred development charge that has become payable but remains outstanding shall be deemed to have been paid on the Owner's behalf by the Town and shall become a charge against the land, added to the tax roll, and collected in like manner and with the same priority as municipal taxes in accordance with Section 446 of the Municipal Act.
- 6) Notwithstanding the requirements of Subsection 3.9(3) above, where, at the time of passing of this by-law, a residential subdivision plan has been filed with the approval authority which provides for the demolition of a non-residential building and the construction of residential buildings, that the rates that would have been applicable under By-Law No. 2014-68, as amended, prior to the passing of this by-law, be applied.

Time of Payment

- 3.10. Development charges imposed under this section are payable upon issuance of the first building permit with respect to each dwelling unit, building or structure.

4. PAYMENT BY SERVICES

- 4.1. Despite the payments required under Subsection 3.9, Council may, by agreement, give a credit towards a development charge in exchange for work that relates to a service for which a development charge is imposed under this by-law.

5. INDEXING

5.1. Development charges imposed pursuant to this by-law shall be adjusted annually, without amendment to this by-law, commencing on January 1, 2020 and each anniversary date thereafter, in accordance with the Statistics Canada Quarterly Construction Price Statistics.

6. SCHEDULES

- 6.1. The following schedules to this by-law form an integral part thereof:
- Schedule "A"** Components of Services Designated in Subsection 2.1
- Schedule "B-1"** Residential and Non-Residential Development Charges - Town-wide – Engineering-related Services
- Schedule "B-2"** Residential and Non-Residential Development Charges - Urban Areas – Engineering-related Services
- Schedule "B-3"** Residential and Non-Residential Development Charges - Town-wide – Community Benefit-related Services
- Schedule "C-1"** Map denoting wastewater urban service areas of the Town to which charges provided in Schedule "B-2" will apply

7. DATE BY-LAW IN FORCE

7.1. This by-law shall come into force September 1, 2019.

8. DATE BY-LAW EXPIRES

8.1. This by-law will expire August 31, 2024, unless it is repealed at an earlier date.

9. REPEAL

9.1. Upon the coming into force of this by-law, By-law No. 2014-68 of the Town of Tecumseh is hereby repealed.

Read a first, second and third time and finally passed this 13th day of August, 2019.

Gary McNamara, Mayor

Laura Moy, Clerk

SCHEDULE "A"
TO BY-LAW NO. 2019-63
DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

Municipal Wide - 100% Eligible:

Fire Protection

- Fire Facility
- Fire Vehicles
- Fire Equipment and Gear

Police

- Police Facilities

Services Related to a Highway

- Roads, Sidewalks, Intersections, Traffic Signals, Streetlights
- Rolling Stock
- Public Works Facilities

Water

- Water Supply, Storage and Distribution

Municipal Wide - 90% Eligible:

Library

- Library Facility

Outdoor Recreation

- Parkland Development
- Parks and Recreation Vehicles and Equipment

Indoor Recreation

- Recreation Facilities

Administration Studies

- Growth Related Studies

Urban Area -100% Eligible:

Wastewater

- Wastewater Treatment and Collection

Schedule “B-1”
By-law No. 2019-63
Schedule of Development Charges
Town-wide
Engineering-related

Service	RESIDENTIAL					NON-RESIDENTIAL
	Single and Semi-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:						
Services Related to a Highway	5,653	3,604	3,152	2,436	2,036	2.79
Fire Protection Services	294	187	164	127	106	0.14
Police Services	135	86	75	58	49	0.07
Administration Studies - Engineering-related	1,030	657	574	444	371	0.65
Water Services	1,502	958	838	647	541	0.70
Total Municipal Wide Services	8,614	5,492	4,803	3,712	3,103	4.35

Schedule “B-2”
By-law No. 2019-63
Schedule of Development Charges
Urban Area
Engineering-related

Service	RESIDENTIAL					NON-RESIDENTIAL
	Single and Semi-Detached Dwelling	Other Multiples	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Special Care/Special Dwelling Units	(per sq.ft. of Gross Floor Area)
Urban Services						
Wastewater Services	4,571	2,914	2,549	1,970	1,646	2.01
Total Urban Services	4,571	2,914	2,549	1,970	1,646	2.01

Schedule “B-3”
By-law No. 2019-63
Schedule of Development Charges
Town-wide
Community Benefit-related

Service	RESIDENTIAL					NON-RESIDENTIAL
	Single and Semi-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:						
Indoor and Outdoor Recreation Services	4,045	2,579	2,256	1,743	1,457	0.29
Library Services	143	91	80	62	52	0.01
Administration Studies - Community Benefit-related	99	63	55	43	36	0.06
Total Municipal Wide Services	4,287	2,733	2,391	1,848	1,545	0.36

Schedule "C-1"
By-law No. 2019-63
Map of Wastewater Urban Service Area

