

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET

BY-LAW No. 025-2021

Being a by-law to establish Development Charges for the Township of Wainfleet

WHEREAS the Development Charges Act, 1997, 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 a development charge background study has been completed in accordance with the Act;

AND WHEREAS the Council of the Township of Wainfleet has given notice and held a public meeting on the day of July 13, 2021 in accordance with the Act and the regulations thereto;

NOW THEREFORE, THE COUNCIL OF THE TOWNSHIP OF WAINFLEET HEREBY ENACTS AS FOLLOWS:

1.0 DEFINITIONS

1.1 In this by-law, "Act" means the Development Charges Act, 1997, as amended, or any successor thereto;

"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;

"apartment unit" means any residential dwelling unit within a building containing three or more dwelling units where access to each residential unit is obtained through a common entrance or entrances from the street level and the residential units are connected by an interior corridor;

"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;

"benefiting 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;

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

“Building Code Act” means the Building Code Act, 1992, as amended; or any successor thereto;

“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, construct or improve facilities including:
 - 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; and
 - rolling stock with an estimated useful life of seven years or more, and
- to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d), including the development charge 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;

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

“commercial” means any non-residential development not defined under “institutional” or “industrial”;

“council” means the Council of the municipality;

“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;

“development charge” means a charge imposed with respect to this by-law;

“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;

“existing industrial building” means a building or buildings existing on site in the Township of Wainfleet on the day this by-law comes into effect or the first building constructed and occupied on a vacant site pursuant to site plan approval under Section 41 of the Planning Act, R.S.O. c.P.13 of the Planning Act subsequent to this by-law coming to effect for which fill development charges were paid, and is being used for or in conjunction with,

- (i) the production, compounding, processing, packaging, crating, bottling, packing or assembling of raw or semi-processed goods or materials in not less than seventy-five percent of the total gross floor area of the building or buildings on a site (“manufacturing”) or warehousing related to the manufacturing use carried on in the building or buildings;
- (ii) research or development in connection with manufacturing in not less than seventy-five percent of the total gross floor area of the building or buildings on a site;
- (iii) retail sales by a manufacturer, if the retail sales are at the site where the manufacturing is carried out, such retail sales are restricted to goods manufactured at the site, and the building or part of a building where such retail sales are carried out does not constitute greater than twenty-five percent of the total gross floor area of the building or buildings on the site;
or
- (iv) office or administrative purposes, if they are,
 - (1) carried out with respect to manufacturing or warehousing; and
 - (2) in or attached to the building or structure used for such manufacturing or warehousing;

“farm building” means that part of a bona fide farming operation encompassing barns, silos and other ancillary development to an agricultural use. This excludes

a residential use, marijuana production facilities, wholesale greenhouse facilities, value added production uses, and value added marketing uses;

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

“gross floor area” means the total area of all floors above grade of a dwelling unit measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit from other dwelling 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 service the building;
- loading facilities above or below grade; and
- a part of the building or structure below grade that is used for the parking of motor vehicles or for storage or other accessory use;

“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;

“institutional development” 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.

"interest rate" means the annual rate of interest calculated at the Township's D.C. Interest Policy;

"local board" has the same definition as defined in the Development Charges Act;

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

"marijuana production facilities" means a building used, designed or intended for growth, producing, testing, destroying, storing or distribution, excluding retail sales, of medical marijuana or cannabis authorized by a license issued by the federal Minister of Health pursuant to section 25 of the Marihuana for Medical Purposes Regulations, SOR/2013-119, under the Controlled Drugs and Substances Act, S.C. 1996, c.19;

“mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer;

“multiple dwellings” means all dwellings other than single-detached, semi-detached, apartment house dwellings, or special care/special dwellings;

“municipality” means The Corporation of the Township of Wainfleet;

“non-profit housing development” 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 the Canada Not-for-profit Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing; or
- c) a non-profit housing co-operative that is in good standing under the Co-operative Corporations Act

“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;

“owner” means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;

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

“regulation” means any regulation made pursuant to the Act;

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

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

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

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

“servicing agreement” means an agreement between a landowner and the municipality relative to the provision of municipal services to specified lands within the municipality;

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

“special care facilities” means lands, buildings or structures used or designed or intended for uses for the purpose of providing supervision, nursing care or medical treatment, which do not comprise dwelling units, that are licensed, approved or supervised under any special or general statute, and excludes the special care/special dwelling portions of the building;

“special care/special dwelling” means a residential portion of special care facilities containing rooms or suites of rooms designed or intended to be used for sleeping and living accommodation that have a common entrance from street level:

- i. Where the occupants have the right to use in common, halls, stairs, yards, common rooms and accessory buildings;
- ii. Which may or may not have exclusive sanitary and/or culinary facilities;
- iii. That is designed to accommodate persons with specific needs, including, but not limited to, independent permanent living arrangements; and

- iv. Where support services such as meal preparation, grocery shopping, laundry, housekeeping, nursing, respite care and attendant services may be provided at various levels

“value added production uses” means value added farm related uses that include processing of agricultural products, including wineries, canneries, bakeries, cheese factories and similar uses, and distribution and warehousing of agricultural products;

“value added marketing uses” means value added farm related uses accessory to an agricultural use that include a variety of methods of increasing the sales of raw or finished farm products. Such uses may include farm produce outlet and other retail facilities for the sale of products, pick your own facilities, and experiential uses such as working farm vacations or culinary schools;

“wind turbine” means a part of a system that converts energy into electricity, and consists of a wind turbine, a tower and associated control or conversion electronics. A wind turbine and energy system may be connected to the electricity grid in circuits at a substation to provide electricity off-site for sale to an electrical utility or other intermediary.

2.0 DESIGNATION OF SERVICES/CLASSES

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

- (a) Services Related to a Highway;
- (b) Fire protection Services;
- (c) Parks and Recreation Services;
- (d) Library services; and
- (e) Administration Studies.

- 2.2 The components of the services/class designated in subsection 2.1 are described in Schedule A.

3.0 APPLICATION OF BY-LAW RULES

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

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

Area to Which By-law Applies

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

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

- (a) the Township of Wainfleet or a local board thereof;
- (b) a board as defined in section 1(1) of the Education Act;
- (c) the Region of Niagara or a local board thereof.

Approvals for Development

- 3.4 (a) Development charges shall be imposed on all lands, buildings or structures that are developed for residential or non-residential uses if the development requires,
- (i) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the Planning Act;
 - (ii) the approval of a minor variance under section 45 of the Planning Act;
 - (iii) a conveyance of land to which a by-law passed under subsection 50(7) of the Planning Act applies;
 - (iv) the approval of a plan of subdivision under section 51 of the Planning Act;
 - (v) a consent under section 53 of the Planning Act;

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

Exemptions

- 3.5 Notwithstanding the provisions of this by-law, development charges shall not be imposed with respect to:
- (a) a place of worship exempt from taxation under the Assessment Act;
 - (b) bona fide farm (non-residential) buildings; and
 - (c) a development by a university, other post-secondary school offering a degree or diploma recognized by the Province of Ontario or a not-for-profit private elementary or secondary school operated in compliance with section 16 of the Education Act, as amended, where such development is used for the academic or teaching purposes of the university or school, is exempt from development charges under this By-law.

3.6 Rules with Respect to Exemptions for New Development

Notwithstanding the provisions of this By-law, no development charge shall be payable where the development:

- (a) is limited to the creation of an additional dwelling unit as prescribed, in prescribed classes of new residential buildings as set out in the Regulations to the Development Charges Act, 1997; and
- (b) is limited to the creation of an additional dwelling unit ancillary to a new dwelling unit for prescribed classes of new residential buildings as set out in the Regulations to the Development Charges Act, 1997.

3.7 Rules with Respect to an Industrial Expansion Exemption

If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable in respect of the enlargement is determined in accordance with the following:

- (i) Subject to subsection 3.7(iii), if the gross floor area is enlarged by 50 per cent or less of the lesser of:
 - (A) the gross floor area of the existing industrial building, or
 - (B) the gross floor area of the existing industrial building before the first enlargement for which:
 - (i) an exemption from the payment of development charges was granted, or
 - (ii) a lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid,

pursuant to Section 4 of the Act and this subsection, the amount of the development charge in respect of the enlargement is zero;
- (ii) Subject to subsection 3.7(iii), if the gross floor area is enlarged by more than 50 per cent or less of the lesser of:
 - (A) the gross floor area of the existing industrial building, or
 - (B) the gross floor area of the existing industrial building before the first enlargement for which:

- (i) an exemption from the payment of development charges was granted, or
- (ii) a lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid,

pursuant to Section 4 of the Act and this subsection, the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:

- (A) determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the first enlargement, and
 - (B) divide the amount determined under subsection (A) by the amount of the enlargement
- (iii) For the purposes of calculating the extent to which the gross floor area of an existing industrial building is enlarged in subsection 3.7(ii), the cumulative gross floor area of any previous enlargements for which:
- (A) an exemption from the payment of development charges was granted, or
 - (B) a lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid,

pursuant to Section 4 of the Act and this subsection, shall be added to the calculation of the gross floor area of the proposed enlargement.

For the purposes of this subsection, the enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, canopy, shared below grade connection, such as a service tunnel, foundation, footing or parking facility.

Amount of ChargesResidential

- 3.8 The development charges described in Schedule B to this by-law shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use building or structure, according to the type of unit, and calculated with respect to each of the services according to the type of residential use.

Non-Residential Uses

- 3.9 The development charges described in Schedule B to this by-law shall be imposed on non-residential uses of lands, buildings or structures, and, in the case of a mixed use building or structure, on the non-residential uses in the mixed use building or structure, 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

- 3.10 Despite any other provision of this by-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within 60 months 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 subsections 3.8 and 3.9 and of this by-law by the number, according to type, of dwelling units that have been or will be demolished or converted to another principal use; and provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.

- (b) the gross floor area of the building demolished/converted multiplied by the current non-residential development charge in place at the time the development charge is payable.

Time of Payment of Development Charges

- 3.11 Development charges imposed under this section are payable upon issuance of a building permit with respect to each dwelling unit, building or structure.
- 3.12 Notwithstanding subsections 3.11, development charges for rental housing and institutional developments are due and payable in 6 installments commencing with the first installment payable on the date of first occupancy certificate issued, and each subsequent installment, including interest, payable on the anniversary date each year thereafter.
- 3.13 Notwithstanding subsections 3.11 development charges for non-profit housing developments are due and payable in 21 installments commencing with the first installment payable on the date of first occupancy certificate issued, and each subsequent installment, including interest, payable on the anniversary date each year thereafter.
- 3.14 Where the development of land results from the approval of a site plan or zoning by-law amendment received on or after January 1, 2020, and the approval of the application occurred within 2 years of building permit issuance, the development charges under subsections 3.8 and 3.9 shall be calculated on the rates set out in Schedule "B" on the date of the planning application, including interest. Where both planning applications apply development charges under subsections 3.8 and 3.9 shall be calculated on the rates, including interest, set out in Schedule "B" on the date of the later planning application, including interest.

4.0 PAYMENT BY SERVICES

- 4.1 Despite the payments required under subsection 3.11, 3.12, 3.13, and 3.14, Council may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable.

5.0 INDEXING

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

6.0 SCHEDULES

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

Schedule A - Components of Services/Classes Designated in subsection 2.1

Schedule B - Residential and Non-Residential Development Charges

7.0 DATE BY-LAW IN FORCE

- 7.1 This by-law shall come into force on the 27th day of July 2021.

8.0 DATE BY-LAW EXPIRES

- 8.1 This by-law will expire five (5) years from the date of this by-law coming into force, unless it is repealed at an earlier date.

BY-LAW READ AND PASSED THIS 27TH DAY OF JULY, 2021



K. Gibson, MAYOR



M. Ciuffetelli, DEPUTY CLERK

SCHEDULE "A"
TO BY-LAW NO. 025-2021

DESIGNATED TOWNSHIP SERVICES/CLASSES OF SERVICES UNDER THIS BY-LAW

Services

Services Related to a Highway
Roads and Related
Public Works Facilities
Public Works Vehicles and Equipment

Fire Protection Services
Facilities
Vehicles
Firefighter Equipment and Gear

Parks and Recreation Services
Parkland Development
Amenities
Facilities
Vehicles and Equipment

Library Services
Facilities
Materials

Classes of Services

Administration Studies
Services Related to a Highway
Fire Protection Services
Parks and Recreation Services
Library Services

**SCHEDULE “B”
TO BY-LAW NO. 025-2021
SCHEDULE OF DEVELOPMENT CHARGES**

Service/Class of 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)	Wind Turbine (Per Unit)
Township-Wide Services/Class of Service:							
Services Related to a Highway	4,448	3,104	2,928	1,790	1,631	2.03	4,448
Fire Protection Services	1,285	897	846	517	471	0.58	1,285
Parks and Recreation Services	1,081	754	712	435	396	0.20	-
Library Services	656	458	432	264	241	0.12	-
Administration Studies	672	469	442	270	246	0.25	672
Total Township-Wide Services/Class of Services	8,142	5,682	5,360	3,276	2,985	3.18	6,405