

THE CORPORATION OF THE TOWN OF SHELBURNE

BY-LAW NUMBER 21-2020

**Being a By-law to establish Development Charges for the Town of Shelburne
in the East Area Road Improvements Area.**

WHEREAS subsection 2(1) of the Development Charges Act, 1997 c. 27 (hereinafter called "the Act") provides that the council of a municipality may pass By-laws for the imposition of development charges against land for increased capital costs required because of the need for services arising from development in the area to which the by-law applies;

AND WHEREAS the Council of The Town of Shelburne held a public meeting in respect of this by-law on April 20, 2020, notice of which was given in accordance with the regulations under the Act;

AND WHEREAS the Council of the Town of Shelburne has heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charge proposal at the public meeting held on April 20, 2020;

AND WHEREAS the Council of the Town of Shelburne had before it a report entitled 2020 Development Charges Background Study (herein referred to as the "Study") dated March 12, 2020 prepared by Hemson Consulting Ltd. wherein it is indicated that the development of any land within the Town of Shelburne will increase the need for services as defined herein;

AND WHEREAS copies of the Study were made available on March 12, 2020 and copies of the proposed Development Charges by-law were made available on April 6, 2020 to the public in accordance with Section 12 of the Act;

AND WHEREAS where changes were made to the proposed Development Charges By-law following the April 20, 2020 public meeting, Council has considered those changes and determined on May 11, 2020, that a further public meeting is not necessary;

AND WHEREAS the Council of the Town of Shelburne on May 11, 2020 approved the Study, in which certain recommendations were made relating to the establishment of a development charge policy for the Town of Shelburne pursuant to the Development Charges Act, 1997;

AND WHEREAS Council of the Town of Shelburne on May 11, 2020 determined that the future excess capacity identified in the Study, shall be paid for by the development charges contemplated in the said Study, or other similar charges;

AND WHEREAS Council of the Town of Shelburne on May 11, 2020 determined that the increase in the need for services attributable to the anticipated development as contemplated in the Study, including any capital costs, will be met by updating the capital budget and forecast

for the Town of Shelburne, where appropriate;

AND WHEREAS the Council of the Town of Shelburne has given consideration of the use of more than one Development Charge By-law to reflect different needs for services in different areas, also known as “area rating” or “area specific development charges”, and has determined that for the services, and associated infrastructure proposed to be funded by development charges under this by-law, that it is fair and reasonable that the charges be calculated on a municipal-wide and area-specific basis;

AND WHEREAS the Study dated March 12, 2020 includes an Asset Management Plan that deals with all assets whose capital costs are intended to be funded under the Development Charge By-law and that such assets are considered to be financially sustainable over their full life-cycle.

THEREFORE, THE COUNCIL OF THE TOWN OF SHELBURNE ENACTS AS FOLLOWS:

1. DEFINITIONS

In this by-law,

- (1) "Act" means the *Development Charges Act, S.O. 1997, c. 27*;
- (2) "Apartment Dwelling" means a unit in a building containing three or more dwelling units that share a common external access to the outside through a common vestibule and a common corridor system;
- (3) "Bedroom" means a room designed to provide sleeping accommodation as determined by the Town's Chief Building Official;
- (4) "Board of Education" means a board defined in subsection 1(1) of the *Education Act*;
- (6) "Building Code Act" means the *Building Code Act, R.S.O. 1990, c.B.-13*, as amended;
- (7) "Council" means the Council of The Town of Shelburne;
- (8) "Development" means any activity or proposed activity in respect of land that requires one or more of the approvals referred to in Section 5 of this by-law and including the redevelopment of land or the redevelopment, expansion, extension or alteration of a use, building or structure except interior alterations to an existing building or structure which do not change or intensify the use of land;
- (9) "Development Charge" means a charge imposed pursuant to this By-law;
- (10) "Dwelling Unit" means a room or suite of rooms used, or designed or intended for use

by, one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;

- (11) "Farm Building" means any building used, or designed or intended for use for agricultural purposes but excluding any Residential Use;
- (12) "Grade" means the average level of finished ground adjoining a building or structure at all exterior walls;
- (13) "Gross floor area":
 - (a) For industrial buildings, means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls;
 - (b) For other non-residential buildings including the non-residential portion of a mixed-use building containing a residential use, the gross floor area means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above or below the average level of finished ground adjoining the building at its exterior walls, excluding floor areas shared in common among multiple tenants or units within the building limited to utility rooms, stairwells, common hallways and storage areas that service the building generally but are not designed or intended for the exclusive use of one unit or tenant;
 - (c) In all cases, the gross floor area:
 - (i) includes the area of a mezzanine as defined in the Ontario Building Code;
 - (ii) shall not include any area which is specifically designed for parking and is not being used for the repair, servicing or sale of vehicles;
 - (iii) includes those areas covered by roofs or roof-like structures, but does not include a canopy or covered patios or decks associated with a restaurant;
- (14) "Local Board" means a local board as defined in Section 1 of the *Municipal Affairs Act* other than a board as defined in subsection 1(1) of the *Education Act*;
- (15) "Local Services" means those services or facilities which are related to a plan of subdivision or within the area to which the plan relates, required as a condition of approval under Section 51 of the *Planning Act*, or as a condition of approval under Section 53 of the *Planning Act*;

- (16) "Multiple Dwelling" means all dwelling units other than single detached dwellings, semi-detached dwellings, and apartment dwellings, including but not limited to townhouse dwellings;
- (17) "Municipality" means The Corporation of The Town of Shelburne;
- (18) "Non-residential uses" means a building or structure used for any use other than a residential use;
- (19) "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;
- (20) "Planning Act" means the *Planning Act, R.S.O. 1990, c.P.-13*, as amended;
- (21) "Regulation" means any regulation made pursuant to the Act;
- (22) "Residential Uses" means lands, buildings or structures or portions thereof used, or designed or intended for use as a home or residence of one or more individuals, and shall include a single detached dwelling, a semi-detached dwelling, a multiple dwelling, an apartment dwelling, and the residential portion of a mixed-use building or structure;
- (23) "Semi-detached Dwelling" means a unit in a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;
- (24) "Services" means services set out in Schedule "A" to this By-law;
- (25) "Single Detached Dwelling" means a completely detached building containing only one dwelling unit;
- (26) "Townhouse Dwelling" means a unit in a building containing a minimum of three (3) dwelling units which are attached above and below grade by either the entire length of the garage or by the entire length of the main common wall and all of which front on a public or private street.

2. CALCULATION OF DEVELOPMENT CHARGES

- (1) Subject to the provisions of this By-law, development charges shall be imposed, calculated and collected in accordance with the base rates set out in Schedule "B.1" and Schedule "B.2", which relate to the services set out in Schedule "A".
- (2) The development charge payable with respect to any development shall be calculated as follows:

- (a) in the case of residential development or redevelopment or the residential portion of a mixed use development or redevelopment, the development charge payable shall be the sum of the product of the number of dwelling units of each type multiplied by the corresponding total amount for such dwelling unit type, as set out in Schedule "B.1".
 - (b) in the case of non-residential development or redevelopment, or the non-residential portion of a mixed use development or redevelopment, the development charge payable shall be the sum of the product of the gross floor area multiplied by the corresponding total amount for such gross floor area as set out in Schedule "B.2".
- (3) Council hereby determines that the development or redevelopment of land, buildings or structures for residential and non-residential uses will require the provision, enlargement or expansion of the services referenced in Schedule "A".
- (4) In addition to the amounts set out in subsection (2), for so long as By-law 31-2015 remains in force with respect to any or all of the following services pursuant to Section 9.1 of the Act, the development charge payable under subsection (2)(a) or (2)(b), as the case may be, shall also include charges for library, parks, indoor recreation and parking services, which shall be calculated in accordance with subsection (2)(a) or (2)(b) of this by-law, using the rates for those services which are set out in Schedule "B.1" or "B.2" of By-law 31-2015. In all other respects, including but not limited to, exemptions from development charges, timing of payment and timing of calculation, the provisions of this by-law shall apply.

3. APPLICABLE LANDS

- (1) Subject to Sections 4 and 5, this by-law applies to all lands identified in Schedule "C", whether or not the land or use is exempt from taxation under Section 3 of the *Assessment Act, R.S.O. 1990, c.A.-31*.
- (2) This by-law shall not apply to any of the following categories of development:
- (a) development undertaken by a Board of Education;
 - (b) development undertaken by any municipality or local board thereof;
 - (c) development undertaken by a hospital under the *Public Hospitals Act*;
 - (d) development of a place of worship exempt from taxation under the *Assessment Act*; and

- (e) development of farm buildings.

4. RULES WITH RESPECT TO AN "INDUSTRIAL" EXPANSION EXEMPTION

- (1) Notwithstanding Section 2, 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 is the following:
 - (a) if the gross floor area is enlarged by 50 percent or less, the amount of the development charge in respect of the enlargement is zero; or
 - (b) if the gross floor area is enlarged by more than 50 percent, development charges are payable on the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement.
- (2) For the purpose of this section, the terms "gross floor area" and "existing industrial building" shall have the same meaning as those terms have in O. Reg. 82/98 made under the Act.
- (3) For greater certainty in applying the exemption under this section, the exemption provided by this section shall be applied up to a maximum of fifty percent of the total floor area before the first enlargement for which an exemption from the payment of development charges was granted pursuant to this By-Law or any previous development charges by-law of the Town made pursuant to the Act.

5. DEVELOPMENT CHARGES IMPOSED

- (1) Subject to subsection (2), development charges shall be imposed on all development that requires,
 - (a) the passing of a zoning by-law or 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 9 of the *Condominium Act, 1998*; or

(g) the issuing of a permit under the *Building Code Act, 1992*, in relation to a building or structure.

(2) Notwithstanding subsection (1), no development charge shall be payable in respect of development which is described in subsection 2(3) of the Act.

6. LOCAL SERVICE INSTALLATION

(1) Nothing in this by-law shall prevent the Town from requiring, as a condition of an agreement under Section 51 or 53 of the *Planning Act*, that an owner, at his or her own expense, install or pay for such local services as the Town may require.

7. MULTIPLE CHARGES

(1) Where two or more of the approvals listed in subsection 5(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.

(2) Notwithstanding subsection (1), if two or more of the actions described in subsection 5(1) occur at different times, and if the subsequent action has the effect of increasing the need for municipal services as set out in Schedule "A", an additional development charge on the additional residential units and/or additional gross floor area shall be calculated and collected in accordance with the provisions of this by-law.

8. SERVICES IN LIEU

(1) The Town may authorize an owner, through an agreement under Sections 27 and/or 38 of the Act, to substitute such part of the development charge applicable to the owner's development as may be specified in the 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, Council shall give to the owner a credit against the development charge in accordance with the agreement provisions and the provisions of the Act, equal to the reasonable cost to the owner of providing the services in lieu. In no case shall the agreement provide for a credit that exceeds the total development charge payable by an owner to the municipality in respect of the development and service to which the agreement relates.

9. RULES WITH RESPECT TO RE-DEVELOPMENT

(1) In the case of the demolition or conversion of all or part of a residential or non-residential building or structure:

(a) a credit shall be allowed, provided that the land was improved by occupied

structures within the five years prior to the issuance of the building permit, and the building permit has been issued for the development or redevelopment within five years from the date the demolition or change of use permit has been issued;

- (b) if a development or redevelopment involves the demolition and/or conversion of and replacement of a building or structure, a credit shall be allowed equivalent to the number of residential dwelling units and/or non-residential gross floor area demolished or converted multiplied by the applicable residential and non-residential development charge in place at the time the development charge is payable; and,
- (c) a credit can, in no case, exceed the amount of the development charge that would otherwise be payable, and no credit is available if the existing land use is exempt under this by-law.

10. TIMING OF CALCULATION AND PAYMENT

- (1) Development charges shall be calculated and payable in accordance with Section 26, Section 26.1, and Section 26.2 of the Act.
- (2) Where development charges apply to development for which a building permit is required, no building permit shall be issued until the development charge has been paid in full.
- (3) Notwithstanding subsection (1), development charges with respect to development requiring approval of a Plan of Subdivision under Section 51 or the *Planning Act* or a consent under Section 53 of the *Planning Act* and for which a subdivision agreement or consent agreement is entered into shall be payable immediately upon the parties entering into the agreement.
- (4) In accordance with Section 27 of the Act, the Town 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.

11. INTEREST RATES

- (1) The municipality may charge interest on the installments required by Section 26.1(3) of the Act from the date the development charge would have been payable in accordance with Section 26 of the Act to the date the installment is paid.
- (2) Where Section 26.2 (1) (a) or (b) of the Act applies, the municipality may charge interest on the development charge from the date of the application referred to in the applicable clause to the date the development charge is payable under Section 26.2 (3) of the Act.

- (3) The Town may determine, by Council resolution or policy external to this by-law, interest rates in relation to subsections (1) and (2).

12. RESERVE FUNDS

- (1) Monies received from payment of development charges under this by-law shall be maintained in separate reserve funds as follows:
 - (a) East Area services.
- (2) Monies received for the payment of development charges shall be used only in accordance with the provisions of the Act.
- (3) Council directs the Municipal Treasurer to divide the reserve funds created hereunder into separate subaccounts in accordance with the service sub-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.
- (4) 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.
- (5) Where any unpaid development charges are collected as taxes under subsection (4), the monies so collected shall be credited to the development charge reserve funds referred to in subsection (1).
- (6) The Treasurer of the Municipality shall, in each year commencing in 2021 for the 2020 year, furnish to Council a statement in respect of the reserve funds established hereunder for the prior year, containing the information set out in O. Reg. 82/98.

13. INDEXING OF DEVELOPMENT CHARGES

- (1) The development charges set out in Schedules "B.1" and "B.2" to this by-law shall be adjusted annually on each anniversary of the date the by-law comes into force, without amendment to this by-law, in accordance with the most recent twelve month change in the Statistics Canada Non-residential Building Construction Price Index for Toronto".

14. SEVERABILITY

- (1) In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction to be ultra vires, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all other provisions of this bylaw shall remain in full force and effect.

15 HEADINGS FOR REFERENCE ONLY

- (1) The headings inserted in this by-law are for convenience of reference only and shall not affect the construction or interpretation of this by-law.

16. BY-LAW REGISTRATION

- (1) A certified copy of this by-law may be registered on title to any land to which this by-law applies.

17. BY-LAW 31-2015

- (1) Except to the extent that certain charges set out in Schedules “B.1” and “B.2” of By-law 31-2015 continue to apply pursuant to Section 2(5) of this By-law, By-law 31-2015 shall be superseded by this By-law and shall no longer have any force or effect.

18. BY-LAW ADMINISTRATION

- (1) This by-law shall be administered by the Municipal Treasurer.

19. SCHEDULES TO THE BY-LAW

- (1) The following Schedules to this by-law form an integral part of this by law:

Schedule "A"	Schedule of Designated Services
Schedule "B.1"	Schedule of Area-Specific Residential Development Charges
Schedule "B.2"	Schedule of Area-Specific Non-Residential Development Charges
Schedule "C"	Lands Subject to East Area Improvements Area-Specific Development Charges

20. DATE BY-LAW EFFECTIVE

- (1) This By-law shall come into force and effect on May 11, 2020.

21. SHORT TITLE

- (1) This by-law may be cited as the "Town of Shelburne Development Charge By-law"

Read a first time and second time this 11TH day of May 2020.

Read a third time and finally passed this 11TH day of May 2020.

The Corporation of The Town of Shelburne

Mayor

Clerk

SCHEDULE "A"

BY-LAW NO. 21-2020

**DESIGNATED MUNICIPAL SERVICES RESPECTING
AREA-SPECIFIC CHARGES UNDER THIS BY-LAW**

1. Roads and Related services.

SCHEDULE "B.1"

BY-LAW NO. 21-2020

**SCHEDULE OF AREA-SPECIFIC RESIDENTIAL DEVELOPMENT CHARGES
UNDER THIS BY-LAW**

Area	Charge by Unit Type			
	Single & Semi-Detached	Multiple Dwelling	Apartments 2 + Bedrooms	Apartments ≤ 1 Bedroom
East Area Road Improvements	\$9,127	\$7,305	\$5,172	\$3,544

SCHEDULE "B.2"

BY-LAW NO. 21-2020

**SCHEDULE OF AREA-SPECIFIC NON-RESIDENTIAL DEVELOPMENT CHARGES
UNDER THIS BY-LAW**

Area	Non-Residential (\$/sq. m.)
East Area Road Improvements	\$47.93

SCHEDULE "C"

BY-LAW NO. 21-2020

LANDS SUBJECT TO EAST AREA IMPROVEMENTS AREA-SPECIFIC CHARGES

