

THE CORPORATION OF THE TOWNSHIP OF BROCK

BY-LAW NUMBER 2554-2014-PL

**BEING A BY-LAW OF THE CORPORATION OF THE TOWNSHIP OF BROCK
RESPECTING DEVELOPMENT CHARGES**

WHEREAS subsection 2(1) of the Act provides that the council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services arising from the development of the area to which the by-law applies;

AND WHEREAS Council has before it a report entitled “Development Charges Background Study”, the Township of Brock, dated May, 2014 (the “Study”), prepared by Hemson Consulting Ltd.;

AND WHEREAS the study was made available to the public and Council gave notice to the public and held a public meeting pursuant to section 12 of the Act on the 16th day of June 2014 and prior to which, the Study and the proposed development charge by-law were made available to the public and Council heard comments and representations from all persons who applied to be heard (the “Public Meeting”);

AND WHEREAS by Resolution No. 1-13 adopted by Council on the 23rd day of June 2014, Council has indicated that it intends to ensure that the increase in the need for services attributable to the anticipated development will be met;

AND WHEREAS by Resolution No. 1-13 adopted by Council on the 23rd day of June 2014, Council has indicated its intent that the future excess capacity identified in the Study shall be paid for by the development charges or other similar charges;

AND WHEREAS by Resolution No. 1-13 adopted by Council on the 23rd day of June 2014, Council determined that no further public meetings were required under section 12 of the Act.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE
TOWNSHIP OF BROCK ENACTS AS FOLLOWS:**

Definitions

1. In this By-law,

“Act” means the *Development Charges Act, 1997*, S.O. 1997, c.27, as amended, and all regulations enacted pursuant thereto;

“Agricultural Use” means a bona fide farming operation, including sod farms, the breeding and boarding of horses, and greenhouses;

“Air-supported Structure” means an air supported structure as defined in the *Building Code Act*;

“Apartment House Dwelling” means a building containing more than four Dwelling Units where the Dwelling Units have a common entrance and are connected by a common corridor and where none of the Dwelling Units is a Single Detached Dwelling, a Semi-Detached Dwelling or a Multiple Dwelling;

“Board of Education” means a board of education, public school board, secondary school board, Catholic school board or Protestant school board;

“Building or Structure” means a structure occupying an area greater than 10 square metres consisting of a wall, roof, and floor or any of them or a structural system serving the function thereof, but does not include a farm building, but does include an air-supported structure and an exterior storage tank;

“Building Code Act” means the Building Code Act, S.O. 1992, chapter 23, as amended and all Regulations thereto including the Ontario Building Code, 1997, as amended;

“Development” means any activity or proposed activity in respect of land that requires one or more of the approvals referred to in Section 7 of the By-law, and includes the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the Gross Floor Area, and includes redevelopment;

“Development Charge” means a charge imposed pursuant to this By-law;

“Dwelling Unit” means any part of a building or structure designed or intended for use by one family only, in which sanitary conveniences and facilities for cooking or for the installation of cooking equipment are provided and in which or for which a heating system is provided, and which has a private entrance from outside the building or from a common hallway or stairway inside;

“Farm Building” means a building or structure actually used as part of or in connection with a bona fide farming operation and includes barns, silos and other buildings or structures ancillary to a bona fide farming operation, but excluding a Residential Use;

“Floor” includes a paved, concrete, wooden, gravel, or dirt floor;

“Garden Suite” shall mean a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing Single Detached Dwelling, Semi-Detached Dwelling, or Row Dwelling and that is designed to be portable.

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

“Gross Floor Area” means the sum total of the total areas of the floors in a building or structure, whether at, above, or below-grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating two uses, or from the outside edge of a floor where the outside edge of the floor does not meet an exterior or common wall, and:

- (a) includes the floor area of a mezzanine and air-supported structure and the space occupied by interior wall partitions; and
- (b) in the case of non-residential uses, excludes any parts of the building or structure used for mechanical equipment related to the operation or maintenance of the building or structure, stairwells, elevators, wash-rooms, and the parking and loading of vehicles, and;
- (c) where a building does not have any walls, the Gross Floor Area shall be the sum total of the area of land directly beneath the roof of the building and the total areas of the floors in the building or structure.

“Industrial” shall mean manufacturing, assembling, processing, fabricating, refining, research and development, storage of materials and products, truck terminals, warehousing, and buildings and structures or portions thereof which are designed, used or intended to be used for a purpose, other than retail service or sales areas, storage or warehousing in connection with retail sales or service areas and office areas, which are accessory to any of the foregoing uses, but the term “industrial” does not include any other non-residential use and “industrial use”, “industrial building” and “industrial development” shall have similar meaning.

“Local Board” means a public utility commission, transportation commission, public library board, board of park management, local board of health, police services board, 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 of the Township or the Region;

“Mezzanine” means a mezzanine as defined in the Building Code Act;

“Multiple Dwellings” means all dwellings other than Single Detached Dwellings, Semi-Detached Dwellings and Apartment House Dwellings;

“Non-Residential Uses” means land, buildings or structures or portions thereof used, or designed or intended to be used for a use other than for a residential use;

“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, R.S.O. 1980, c. 31 as amended;

“Planning Act” means the Planning Act, R.S.O. 1990, c. P.13, as amended, and all regulations enacted pursuant thereto;

“Protracted” means in relation to a temporary building or structure the persistence of its construction, erection, placement on land, alteration or of an addition to it for a continuous period exceeding eight months;

“Redevelopment” means the construction, erection or placing of one or more buildings or structures on land where all or part of a building or structure has previously been demolished on such land, or changing the use of a building or structure from residential to non-residential or from non-residential to residential;

“Region” means the Corporation of the Regional Municipality of Durham;

“Residential Uses” means land, buildings or structures or portions thereof used, designed, or intended to be used as living accommodation for one or more individuals;

“Row Dwelling” means a residential building consisting of one dwelling unit having two vertical walls, but no other parts, attached to another structure;

“Semi-Detached Dwelling” means one of a pair of two attached single family dwellings with a common masonry wall dividing the pair of single family dwellings vertically or horizontally, each of which has an independent entrance either directly or from the outside or through a common vestibule;

“Services” means services designated in this By-law including Schedule “A” to this By-law or in an agreement under section 44 of the Act, or both;

“Single Detached Dwelling” means a residential building consisting of one Dwelling Unit and not attached to another structure;

“Temporary Building or Structure” means a building or structure constructed or erected or placed on land for a continuous period not exceeding eight months, or an addition or alteration to a building or structure that has the effect of increasing the Gross Floor Area thereof for a continuous period not exceeding eight months;

“Township” means The Corporation of the Township of Brock;

Rules

2. For the purpose of complying with section 6 of the Act:
 - (a) the area to which this By-law applies shall be the area described in section 3 of this By-law;
 - (b) the rules developed under paragraph 9 of subsection 5(1) of the Act for determining if a development charge is payable in any particular case and for determining the amount of the charge shall be as set forth in sections 4 through 18, inclusive and section 24 of this By-law;
 - (c) the exemptions provided for by such rules shall be the exemptions set forth in sections 19 through 22, inclusive of this By-law, the indexing of charges shall be in accordance with section 16 of this By-law and there shall be no phasing in of residential and non-residential development charges as provided in subsection 17(1) of this By-law.
 - (d) the redevelopment of land shall be in accordance with the rules set forth in section 23 of this By-law.

Lands Affected

3. This By-law applies to all lands in the geographic area of the Corporation of the Township of Brock.

Designation of Services

4. It is hereby declared by Council that all development land within the area to which this By-law applies will increase the need for services.
5. The development charge applicable to a development as determined under this By-law shall apply without regard to the services required or used by an individual development.
6. Development charges shall be imposed and reserve funds established for the following categories of services, as set out in Schedule “A”, to pay for the increased capital costs required because of increased needs for services arising from development:

Approvals for Development

7. Development charges shall be imposed against all lands, buildings or structures within the area to which this By-law applies if the development of such lands, buildings or structures requires any of the following approvals:

- (a) the passing of a zoning by-law or of an amendment thereto 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*, or;
 - (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.
8. No more than one development charge for each service designated in section 6 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 section 7 are required before the lands, buildings or structure can be developed.
 9. Notwithstanding section 13 if two or more of the actions described in section 7 occur at different times, additional development charges shall be imposed in respect of any increased or additional development permitted by those actions.
 10. Where a development requires an approval described in section 7 after the issuance of a building permit and no development charge has been paid, then the development charge shall be paid prior to the granting of the approval required under section 7.
 11. If a development does not require a building permit but does require one or more of the approvals described in section 7, then the development charge shall nonetheless be payable in respect of any increased or additional development permitted by such approval required for the increased or additional development being granted.
 12. Nothing in this By-law prevents Council from requiring, as a condition of an agreement under sections 51 or 53 of the *Planning Act*, that the owner, at his or her own expense, install such local services related to a plan of subdivision or within the area to which the plan relates, as council may require, or that the owner pay for local connections to storm drainage facilities installed at the owner's expense, or administrative, processing, or inspection fees.

Calculation of Development Charges

13. The development charge with respect to the use of any land, buildings or structures shall be calculated as follows:
 - (a) in the case of residential development, or the residential portion of a mixed-use development, based upon the number and type of dwelling units; or
 - (b) in the case on non-residential development, or the non-residential portion of a mixed-use development, based upon the Gross Floor Area of such development.

Amount of Charge – Residential

14. The development charges described in Schedules “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, a Garden Suite, and, in the case of a mixed use building or structure, on the residential component of the mixed use building or structure, according to the type of residential use.

Amount of Charge – Non-Residential

15. (1) The development charges described in Schedule “C” 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 components of 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.
- (2) Notwithstanding subsection (1) development charges shall not be imposed upon non-residential development if the development does not have the effect of creating Gross Floor Area of non-residential development or of increasing existing Gross Floor Area of non-residential development.

Indexing of Development Charges

16. The development charges set out in Schedule “B” hereto shall be adjusted without amendment to this By-law annually on July 1st in each year, commencing July 1st, 2015, and the development charges as set out in Schedule “C” hereto shall be adjusted without amendment to this By-law annually on July 1st in each year, commencing July 1st, 2015 in accordance with the Statistics Canada Quarterly, Construction Price Statistics (catalogue number 62-007) based on the 12 month period ending March 31st.

Phasing, Timing of Calculation and Payment

17. (1) The residential development charges set out in Schedule “B” attached hereto are not subject to phasing and are payable in full, subject to the exemptions and credits herein from the effective date of this By-law.
- (2) The non-residential development charges set out in Schedule “C” attached hereto are not subject to phasing in and are payable in full, subject to the exemptions and credits herein from the effective date of this By-law.
- (3) Subject to section 23 (with respect to redevelopment) and subsection (4), the development charge shall be calculated as of, and shall be payable, on the date the first building permit is issued in relation to a building or structure on land to which the development charge applies.
- (4) Notwithstanding subsection (2) the Township may require an owner to enter into an agreement, including the provision of security for the owner’s obligations under agreement, pursuant to section 27 of the Act providing for all or part of a development charge to be paid before or after it otherwise would be payable. The terms of such agreement as they relate to the timing of payments shall then prevail over the provision of this By-law.
- (5) The Chief Building Official of the Township shall withhold the issuance of a building permit in relation to a building or structure on land to which the Development Charge applies unless the Development Charge has been paid.

Payment by Money or the Provision of Services

18. (1) Payment of development charges shall be by cash or by certified cheque.
- (2) In the alternative to payment by the means provided in subsection (1), the Township may, by an agreement entered into with the owner, accept the provision of services in full or partial satisfaction of the development charge otherwise payable provided that:
- (a) if the Township and the owner cannot agree as to the reasonable cost of doing the work under sub-section (2), the dispute shall be referred to Council whose decision shall be final and binding.
 - (b) if the credit for the provision of service exceeds the amount of the development charge for the service to which the work relates,
 - (i) the excess amount shall not be credited against the development charge for any other service, unless the Township has so agreed in an agreement under Section 39 of the Act; and
 - (ii) in no event shall the Township be required to make a cash payment to the credit holder.
 - (3) Nothing in this By-law prevents Council from requiring, as a condition of any approval given under the *Planning Act* that the owner, at the owner's expense, install such local services as Council may require in accordance with the Township's local services' policies in effect at the time.

Rules with Respect to Exemptions for Intensification of Existing Housing

19. (1) This By-law does not apply with respect to approvals related to the residential development of land, buildings or structures that would have the effect only,
- (a) of permitting the enlargement of an existing dwelling unit;
 - (b) of creating one or two additional dwelling units in an existing single detached dwelling unit;
 - (c) of creating one additional dwelling unit in an existing semi-detached dwelling unit; or
 - (d) of creating one additional dwelling unit for any other existing residential building.
- (2) Notwithstanding clauses (1)(b) to (d), a development charge shall be imposed with respect to the creation of one or two additional dwelling units in a dwelling, if the Gross Floor Area of the additional one or two dwelling units exceeds, the Gross Floor Area of the existing dwelling unit in clause (1)(b) and (1)(c), and the smallest existing dwelling unit in clause (1)(d).

Rules with Respect to Exemptions for Intensification of Existing Industrial Buildings

20. (1) 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 this section.

- (a) If the gross floor area is enlarged by 50 per cent or less, the amount of the development charge in respect of the enlargement is zero
- (b) 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 otherwise be payable multiplied by the fraction determined as follows:
 - (i) Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement.
 - (ii) Divide the amount determined under paragraph (i) by the amount of the enlargement.

Categories of Exemptions

21. (1) The following categories of institutions are hereby designated as being exempt from the payment of development charges:
- (a) buildings or structures used as hospitals governed by the *Public Hospitals Act*, R.S.O 1990, c. P.40;
 - (b) buildings or structures owned by and used for the purposes of the Township, the Region, or their local boards;
 - (c) buildings or structures owned by a board of education and used for school purposes;
 - (d) buildings or structures owned by and used for the purposes of a college of applied arts and technology established pursuant to the Ministry of Colleges and Universities Act R.S.O 1990, c. M.19;
 - (e) buildings or structures owned by and used for the purposes of a university established by an Act of the Legislative Assembly of Ontario.
 - (f) Development in relation to lands to be used as a place of worship and land used in connection therewith, a churchyard, cemetery or burying ground exempt under the Assessment Act, R.S.O. 1980, c. 31, as amended, for taxation purposes; and
 - (g) Development of Farm Buildings;
- (2) (a) Subject to subsections 2(b) and (c) below, no Development Charge is payable where the Development:
- (i) is an enlargement of an existing Dwelling Unit;
 - (ii) creates one or two additional Dwelling Units in an existing Single Detached Dwelling; or
 - (iii) creates one additional Dwelling Unit in any existing residential building other than a Single Detached Dwelling.
- (b) Notwithstanding subsection 2(a) above, a Development Charge shall be imposed where:
- (i) the total Gross Floor Area of the additional one or two Dwelling Units exceeds the Gross Floor Area of the existing Single Detached Dwelling, and

- (ii) in determining the Gross Floor Area of the existing Single Detached Dwelling, the Gross Floor Area shall be the maximum Gross Floor Area in the three years preceding an application for a building permit in respect of the additional one or two Dwelling Units.
- (c) Notwithstanding subsection 2(a) above, a Development Charge shall be imposed if the additional Dwelling Unit has a Gross Floor Area greater than:
 - (i) in the case of the Semi-Detached or Row Dwelling, the Gross Floor Area of the existing Dwelling Unit;
 - (ii) in the case of any other residential building, the Gross Floor Area of the smallest Dwelling Unit contained in the residential building; and
 - (iii) in determining the Gross Floor Area of the Semi-Detached or Row Dwelling or of the smallest Dwelling Unit in a residential building, the Gross Floor Area shall be the maximum Gross Floor Area in the three years preceding the application for a building permit in respect of the one additional Dwelling Unit.
- (3) The exemption referred to in this paragraph 20 (1) (b) does not apply to the development for residential uses of lands owned by:
 - (a) the Region or any local board thereof; or
 - (b) any corporation owned, controlled, or operated by the Region.

Agricultural Uses

- 22. Agricultural uses as well as farm buildings and other ancillary development to an agricultural use excluding any residential or commercial uses shall be exempt from the provisions of this By-law.

Temporary Buildings or Structures

- 23. (1) Temporary buildings or structures shall be exempt from the provisions of this By-law.
- (2) In the event that a temporary building or structure becomes protracted, it shall be deemed not to be nor ever to have been a temporary building or structure, and the development charges required to be paid under this By-law shall become payable on the date the temporary building or structure becomes protracted.
- (3) Prior to the Township issuing a building permit for a temporary building or structure, the Township may require an owner to enter into an agreement, including the provision of security for the owner's obligation under the agreement, pursuant to section 27 of the Act providing for all or part of the development charge required by subsection 22(2) to be paid after it would otherwise be payable. The terms of such agreement shall then prevail over the provisions of this By-law, as it relates to the timing of payment.

Rules with Respect to the Redevelopment of Land

24. (1) Where there is a redevelopment of land on which there is a conversion of space proposed, or on which there was formerly erected a building or structure that has been demolished, a credit shall be allowed against the development charge otherwise payable by the owner pursuant to this By-law for the portion of the previous building or structure still in existence that is being converted or for the portion of the building or structure that has been demolished, as the case may be, calculated by multiplying the number and type of dwelling units being converted or demolished or the non-residential Gross Floor Area being converted or demolished by the relevant development charge in effect on the date when the development charge is payable in accordance with this By-law.
- (2) A credit in respect of any demolition under this section shall not be given unless a building permit has been issued or a subdivision agreement has been entered into with the Township for the development within 3 years from the date the demolition permit was issued.
- (3) The amount of any credit hereunder shall not exceed, in total, the amount of the development charges otherwise payable with respect to the development.

Pre-Development Charge By-law Credits

25. Where an owner or former owner of land to which this By-law applies has paid to the Township prior to October 28, 1991 a capital contribution as required by an agreement between the Township and the owner or former owner, the Township will, until the expiry of this By-law, recognize as a credit towards a development charge imposed under this By-law, an amount equal to the capital contributions previously paid (as indexed in accordance with the then capital contributions policy of the Township to the date the development charge imposed under this By-law is paid) expressed as a dollar amount per acre for the land to which the development charge imposed under this By-law applies.

Interest

26. The Township shall pay interest on a refund under subsection 18(3), (5) and 25(2) of the *Development Charges Act, 1997* at a rate equal to the Bank of Canada rate on the date this By-law comes into force.

Front Ending Agreements

27. The Township may enter into front ending agreement under Part III of the Act.

Schedules

28. The following Schedules to this By-law form an integral part of this By-law.

Schedule 'A' Designated Services and Sub-Components

Schedule 'B' Residential Development Charges

Schedule 'C' Non-Residential Development Charges

By-law Registration

29. A certified copy of this By-law may be registered in the by-law register in the Land Registry Office against all land in the Township and may be registered against title to any land to which this By-law applies.

Date By-law Effective

30. This By-law comes into force and effect on the 23rd day of June, 2014.

Date By-law Expires

31. This By-law expires five years after the date on which it comes into force and effect.

Repeal

32. By-law Number 2224-2009-PL is hereby repealed effective on the date this By-law comes into force and effect.

Headings for Reference Only

33. 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.

Severability

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

BY-LAW NUMBER 2554-2014-PP READ A FIRST, SECOND, THIRD TIME and FINALLY PASSED THIS 23rd DAY OF JUNE, A.D., 2014.

“Thomas G. Gettinby”
CAO & Clerk

“W. Terry Clayton”
Mayor

Schedule “A” to By-law Number 2554-2014-PL

Service Categories

<p>Service Categories</p> <ol style="list-style-type: none">1. General Government2. Library, Parks & Recreation3. Fire Services4. Public Works: Buildings & Fleet5. Roads & Related

Schedule “B” to By-law Number 2554-2014-PL

Residential Development Charges ⁽¹⁾
Township Wide Uniform Charges ⁽²⁾

Service	Residential Charge By Unit Type		
	Single & Semi-Detached	Row Dwellings & Other Multiples	Apartment & Garden Suite
General Government	\$501	\$401	\$301
Library, Parks & Recreation	\$4,521	\$3,616	\$2,712
Fire Services	\$1,361	\$1,089	\$817
Public Works: Buildings & Fleet	\$915	\$732	\$549
Roads And Related	<u>\$2,404</u>	<u>\$1,923</u>	<u>\$1,442</u>
TOTAL CHARGE PER UNIT	\$9,701	\$7,761	\$5,821

- Notes:
- (1) The development charges described above may be indexed annually under section 16 of this By-law.
 - (2) Township-wide rates to be applied uniformly to all development within the Township, subject to the provisions of this By-law.

Schedule “C” to By-law Number 2554-2014-PL

Non-Residential Development Charges ⁽¹⁾
Township Wide Uniform Charges ⁽²⁾

Service	Adjusted Charge per Square Metre
General Government	\$2.40
Library, Parks & Recreation	\$0.00
Fire Services	\$6.59
Public Works: Buildings & Fleet	\$4.38
Roads And Related	<u>\$11.58</u>
TOTAL CHARGE PER SQUARE METRE	\$24.95

Notes:

- (1) The development charges described above shall be indexed annually under section 16 of this By-law.
- (2) Township-wide rates to be applied uniformly to all development within the Township, subject to the provisions of this By-law