

The Corporation of the Municipality of Leamington

By-law 49-22

By-law to establish Development Charges for the Municipality of Leamington

Whereas the Development Charges Act, 1997 (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 Charges Background Study has been completed in accordance with the Act;

And whereas Council has before it a report entitled "Municipality of Leamington Development Charge Background Study" prepared by Watson & Associates Economists Ltd. dated May 16, 2022;

And whereas the Council of the Corporation of the Municipality of Leamington has given notice of and held a public meeting on the 31st day of May, 2022 in accordance with the Act and the regulations thereto;

Now therefore the Council of the Corporation of the Municipality of Leamington hereby enacts as follows:

1.0 Definitions

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, but is not an ancillary residential building;

"Agricultural Use" means use or intended use for bona fide farming purpose:

(a) including (but not limited to):

- i. cultivation of crops, whether on open land or in greenhouses, including (but not limited to) fruit, vegetables, herbs, grains, field
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crops, marijuana, sod, trees, shrubs, flowers, and ornamental plants;

- ii. (ii) raising of animals, including (but not limited to) cattle, horses, pigs, poultry, livestock, fish; and
- iii. (iii) agricultural animal husbandry, dairying, equestrian activities, horticulture, fallowing, pasturing, and market gardening;

(b) but excluding:

- i. retail sales activities; including but not limited to restaurants, banquet facilities, hospitality facilities and gift shops;
- ii. services related to grooming, boarding, or breeding of household pets; and
- iii. (iii) marijuana processing or production facilities.

“ancillary residential building” means a residential building that would be ancillary to a detached dwelling, semi-detached dwelling, or row dwelling.

“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;

“back-to-back townhouse dwelling” means a building containing more than two dwelling units separated vertically by a common wall, including a rear common wall, which do not have rear yards;

“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;

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

“building permit” means a permit pursuant to the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended;

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

“Bunk House” means a temporary dwelling used for the housing of seasonal farm workers which is intended not to be used year-round and not used as a permanent residence and includes a communal kitchen, bathrooms, and sleeping facilities and may include a mobile home;

“cannabis plant” means a plant that belongs to the genus Cannabis.

“Cannabis Production Facilities” means a building, or part thereof, designed, used, or intended to be used for one or more of the following: cultivation, propagation, production, processing, harvesting, testing, alteration, destruction, storage, packaging, shipment or distribution of cannabis where a license, permit or authorization has been issued under applicable federal law and does include, but is not limited to such buildings as a greenhouse and agricultural building associated with the use. It does not include a building or part thereof solely designed, used, or intended to be used for retail sales of cannabis.

“calculation date” means the date on which the first building permit is issued by the local municipality, unless otherwise stipulated in the D.C.A.;

“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,

- i. to acquire land or an interest in land, including a leasehold interest,
- ii. to improve land,
- iii. to acquire, lease, construct or improve buildings and structures,
- iv. to acquire, construct or improve facilities including:
 - a. furniture and equipment other than computer equipment, and
 - b. materials acquired for circulation, reference or information purposes by a library board as defined in the Public Libraries Act, and
 - c. rolling stock with an estimated useful life of seven years or more, and

- v. to undertake studies in connection with any matter under the Act and any of the matters in clauses (i) to (iv), 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 (i), (ii), (iii) and (iv) that are growth-related;

“Municipality” means The Corporation of the Municipality of Leamington;

“commercial purpose” means used, designed, or intended for use for or in connection with the purchase and/or sale and/or rental of commodities; the provision of services for a fee; or the operation of a business office, and includes hotels and motels;

“correctional group home” means a residential building or the residential portion of a mixed-use building containing a single housekeeping unit supervised on a 24-hour basis on site by agency staff on a shift rotation basis, and funded wholly or in part by an government or its agency, or by public subscription or donation, or by any combination thereof, and licensed, approved or supervised by the Province of Ontario as a detention or correctional facility under any general or special act and amendments or replacement thereto. A correction group home may contain an office provided that the office is used only for the operation of the correctional group home in which it is located. A correctional group home shall not include any detention facility operated or supervised by the Federal Government nor any correctional institution or secure custody and detention facility operated by the Province of Ontario;

“Council” means the Council of the municipality;

“County” means the County of Essex;

“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; notwithstanding the foregoing, development does not include temporary structures, including but not limited to, seasonal hoop structures, seasonal fabric structures, tents, or produce sales stands;

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

“dwelling room” means either:

- a) each bedroom used, designed, or intended for use by one or more persons living together in a lodging home, dormitories, or
- b) in the case of a special care/special dwelling unit/room, each individual room or suite of rooms used, designed, or intended for use by one or two persons with or without exclusive sanitary and/or culinary facilities.

“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 Municipality of Leamington on July 28, 2022 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 full 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,

- a. carried out with respect to manufacturing or warehousing; and
- b. 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, but excluding a residential use and would include wholesale greenhouse facilities and structures;

“garden suite” means a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable;

“greenhouse” means a structure that is used for growing plants in regulated temperatures, humidity, and ventilation. A greenhouse can range from a small room carrying a few plants over the winter, to an immense heated building called a hothouse or conservatory, covering acres of ground and used for growing fruits, vegetables, or flowers;

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

“granny flat” means a one-unit detached, temporary residential structure, containing culinary and sanitary facilities, which is ancillary to an existing residential structure and that is designed to be temporary;

“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 unit 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;

“group home” means a residential building or the residential portion of a mixed-use building containing a single housekeeping unit which may or may not be supervised on a 24-hour basis on site by agency staff on a shift rotation basis, and funded wholly or in part by any government or its agency, or by public subscription or donation, or by any combination thereof and licensed, approved or supervised by the Province of Ontario for the accommodation of persons under any general or special act and amendments or replacements thereto. A group home may contain an office provided that the office is used only for the operation of the group home in which it is located;

“hospice” means a building or portion of a mixed-use building designed and intended to provide palliative care and emotional support to the terminally ill in a home or homelike setting so that quality of life is maintained, and family members may be active participants in care;

“industrial use” means land, buildings or structures used for or in connection with manufacturing by:

- (a) manufacturing, producing, and processing goods for a commercial purpose, as well as storing and/or distribution of goods manufactured, produced, or processed on site;
- (b) research or development in connection with manufacturing, producing, or processing good for a commercial purpose;
- (c) retail sales by a manufacturer, producer, or processor of goods they manufactured, produced, or processed, if the retail sales are at the site where the manufacturing, production or processing takes place;
- (d) office or administrative purposes if it is:

- i. carried out with respect to manufacturing, producing, processing, storage or distributing of something; and
- ii. in or attached to the building or structure used for that manufacturing, producing, processing, storage, or distribution;

“institutional” means lands, buildings or structures used or designed or intended for use by an organized body, society, or religious group 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;

“live/work unit” means a unit which contains separate residential and non-residential areas intended for both residential and non-residential uses concurrently, and shares a common wall or floor with direct access between the residential and non-residential areas;

“local board” means a municipal service board, transportation commission, public library board, 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 one or more local municipalities or the Region, but excluding a board of education, a conservation authority, any municipal services corporation that is not deemed to be a local board under O. Reg. 599/06 made under the Municipal Act, 2001, S.O. 2001, c. 25, as amended.

“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;

“lodging home” means a boarding, lodging, or rooming house in which lodging is provided for more than four persons in return for remuneration or for the provision of services, or for both, and in which the lodging rooms do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants;

“long term care home” means homes, nursing homes or homes for the aged where the Ministry of Health and Long-Term Care funds the care provided in

such homes and application for accommodation is made through a Community Care Access Centre;

“mezzanine” means an intermediate floor assembly between the floor and ceiling of any room or storey and includes an interior balcony;

“mixed-use building” means a building or structure used for both residential and non-residential use;

“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 and apartment house dwellings;

“multiplex dwelling” means a residential building containing three or more dwelling units, each of which unit has a separate entrance to grade;

“municipality” means The Corporation of the Municipality of Leamington;

“non-industrial” means all buildings or structures not defined as industrial;

“non-profit housing development” means development of a building or structure intended for use as residential premises by,

- a) a corporation to which the Not-for-Profit Corporations Act, 2010 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, or any successor legislation.

“non-residential building” means a building or structure used exclusively for non-residential use, including the non-residential component of a live/work unit;

“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;

“other multiple” means all residential units other than a single detached dwelling, semi-detached dwelling, apartment dwelling or a special care/special dwelling unit, including, but not limited to, row dwellings, multiplex, back-to-back townhouse dwelling, stacked townhouse dwelling, and the residential component of live/work units;

“Official Plan” means the Official Plan adopted for the Municipality, as amended, and approved;

“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;

“parking structure” means buildings or structures uses for the parking of motor vehicles;

“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;

“premise” means one or more dwelling units and/or one or more square feet used for non-residential use;

"redevelopment" means the construction, erection or placing of one or more buildings on land where all or part of a building on such land has been previously demolished, or changing the use of all or part of a building from a residential purpose to a non-residential purpose or from a non-residential purpose to a residential purpose, or changing all or part of a building from one form of residential development to another form of residential development or from one form of non-residential development to another form of non-residential development;

“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 dwelling” means a building, occupied or capable of being occupied as a home, residence or sleeping place by one or more persons, containing one or

more dwelling units but not including motels, hotels, tents, truck campers, tourist trailers, mobile camper trailers or boarding, lodging or rooming houses;

“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;

“row dwelling” means a building containing three or more attached dwelling units in a single row, each of which dwelling units has an independent entrance from the outside and is vertically separated from any abutting dwelling unit;

“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;

“service” (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/special dwelling” means a residence:

- a) containing two or more dwelling rooms, which rooms have common entrance from street level; and
- b) where the occupants have the right to use in common with other occupants, halls, stairs, yards, common room, and accessory buildings; and
- c) that is designed to accommodate persons with specific needs, including but not limited to, independent permanent living arrangements; and where support services, such as meal preparation, grocery shopping, laundry, housing, nursing, respite care and attending services are provided at

various levels; and includes but is not limited to retirement homes or lodges, group homes, dormitories, and hospices;

“stacked townhouse dwelling” means a building containing two or more dwelling units where each dwelling unit is separated horizontally and/or vertically from another dwelling unit by a common wall or floor;

“student residence” means a Residential Development that is solely owned by a University, college of applied arts and technology or other accredited post-secondary institution, designated, or intended to be used for sleeping and living accommodations by students of the university, college of applied arts and technology or other accredited post-secondary institution that owns the Residential Development.

“use” means either residential use or non-residential use.

2.0 Designation of Services and Classes

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

- (a) Services Related to a Highway;
- (b) Public Works;
- (c) Fire Protection Services;
- (d) Parks and Recreation Services;
- (e) Policing Services;
- (f) Wastewater Services;
- (g) Water Services; and
- (h) Growth Studies.

2.2 The components of the services and classes 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 Section 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 Municipality of Leamington.
- 3.3 This by-law shall not apply to lands that are owned by and used for the purposes of:
 - (a) The Municipality of Leamington or a local board thereof;
 - (b) A board as defined in section 1(1) of the Education Act;
 - (c) The Corporation of the County of Essex 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

Rules with Respect to Exemptions for Intensification of Existing Housing or New Housing

- 3.5 Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to developments or portions of developments as follows:
- a) the enlargement to an existing residential dwelling unit;
 - b) the creation of up to two additional dwelling units in existing dwellings as the following table sets out:

Item	Name of Class of Existing Residential Building	Description of Class of Existing Residential Buildings	Maximum number of Additional Dwelling Units	Restrictions
1	Existing single detached dwellings	Existing residential buildings, each of which contains a single dwelling unit, which are not attached to other buildings.	Two	The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building.
2	Existing semi-detached dwellings or row dwellings	Existing residential buildings, each of which contains a single dwelling unit, which have one or two vertical walls, but no other parts, attached to other buildings.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building.
3	Existing rental residential buildings	Existing residential rental buildings, each of which contains four or more dwelling units.	Greater of one and 1% of the existing units in the building	None.
4	Other existing residential buildings	An existing residential building not in another class of residential building described in this table.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building

- c) the creation of a second dwelling unit in prescribed classes of proposed new residential buildings, including structures ancillary to dwellings, subject to the following restrictions:

Item	Name of Class of Proposed New Residential Buildings	Description of Class of Proposed New Residential Buildings	Restrictions
1	Proposed new detached dwellings	Proposed new residential buildings that would not be attached to other buildings and that are permitted to contain a second dwelling unit, which being either of the two dwelling units, if the units have the same gross floor area, or the small of the dwelling units.	<p>The proposed new detached dwelling must only contain two dwelling units.</p> <p>The proposed new detached dwelling must be located on a parcel of land on which no other detached dwelling, semi-detached dwelling, or row dwelling would be located.</p>
2	Proposed new semi-detached dwellings or row dwellings	Proposed new residential buildings that have one or two vertical walks, but no other parts, attached to other buildings and that are permitted to contain a second dwelling unit, which being either of the two dwelling units, if the units have the same gross floor area, or the small of the dwelling units.	<p>The proposed new semi-detached dwelling or row dwelling must only contain two dwelling units.</p> <p>The proposed new semi-detached dwelling or row dwelling must be located on a parcel of land on which no other detached dwelling, semi-detached dwelling, or row dwelling would be located.</p>

3	Proposed new residential buildings that would be ancillary to a proposed new detached dwelling, semi-detached dwelling, or row dwelling	Proposed new residential buildings that would be ancillary to a proposed new detached dwelling, semi-detached dwelling, or row dwelling and that are permitted to contain a single dwelling unit.	<p>The proposed new detached dwelling, semi-detached dwelling, or row dwelling, to which the proposed new residential building would be ancillary, must only contain one dwelling unit.</p> <p>The gross floor area of the dwelling unit in the proposed new residential building must be equal to or less than the gross floor area of the detached dwelling, semi-detached dwelling, or row dwelling to which the proposed new residential building is ancillary.</p>
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3.5.1 Notwithstanding subsection 3.5(b), development charges shall be imposed if the total gross floor area of the additional one or two units exceeds the gross floor area of the existing dwelling unit.

3.5.2 Notwithstanding subsection 3.5(d), development charges shall be imposed if the additional unit has a gross floor area greater than:

- (a) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and
- (b) in the case of any other residential building, the gross floor area of the smallest dwelling unit already contained in the residential building.

3.6 Exemption for Industrial Development:

3.6.1 For the purpose of sections 3.6.2 to 3.7.3 inclusive, the term “existing industrial building” shall have the same meaning as that term has in the Regulation and shall not include self-storage or mini-storage facilities.

3.6.2 Notwithstanding any other provision of this By-law, but subject to sections 3.7.2 and 3.7.3 below, no development charge is payable with respect to

the enlargement of the total floor area of an existing industrial building where the total floor area is enlarged by 50 percent or less:

3.7 If the total floor area of an existing industrial building is enlarged by greater than 50 percent, the amount of the development charge payable 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 percent of the total floor area before the enlargement;
- b) divide the amount determined under subsection 3.7(a) by the amount of the enlargement.

3.7.1 For greater certainty in applying the exemption in this section, the total floor area of an existing industrial building is enlarged where there is a bona fide increase in the size of the existing industrial building, the enlarged area is attached to the existing industrial building, there is a direct means of ingress and egress from the existing industrial building to and from the enlarged area for persons, goods and equipment and the existing industrial building and the enlarged area are used for or in connection with an industrial purpose as set out in subsection 1(1) of the Regulation. Without limiting the generality of the foregoing, the exemption in this section shall not apply where the enlarged area is attached to the existing industrial building by means only of a tunnel, bridge, canopy, corridor, or other passageway, or through a shared below-grade connection such as a service tunnel, foundation, footing or parking facility.

3.7.2 The exemption for an existing industrial building provided by this section shall be applied up to a maximum of 50 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 Municipality made pursuant to the Act or its predecessor legislation. Development charges shall be imposed in accordance with Schedule B with respect to the amount of floor area of an enlargement that results in the total floor area of the industrial building being increased by greater than 50 percent of the total floor area of the existing industrial building.

3.7.3 For the purposes of this section, despite any new sites created which result in an existing industrial building being on a site separate from its enlargement or enlargements for which an exemption was granted under this section, further exemptions, if any, pertaining to the existing industrial building shall be calculated in accordance with section 3.7.2 on the basis of its site prior to any division.

3.8 **Other Exemptions/Reductions**

Notwithstanding the provision of this By-law, development charges shall not be imposed with respect to:

- Residential accessory buildings if a service connection already exists for the lot but excludes bunk houses;
- Private schools;
- Agricultural buildings excluding bunk houses and greenhouse uses;
- Land vested in or leased to a university that receives regular and ongoing operating funds from the government for the purposes of post-secondary education is exempt from development charges imposed under the Development Charges Act, 1997 if the development in respect of which development charges would otherwise be payable is intended to be occupied and used by the university.

Reduction of Development Charges with Respect to Redevelopment and Conversion

3.9 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 3 years prior to the date of payment of development charges in regard to such redevelopment was, or is to be demolished, in whole or in part, or converted from one principal use to another principal use on the same land, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by the following amounts:

- a) in the case of a residential building or structure, or in the case of a mixed-use building or structure, the residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charge under subsection 3.8 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) in the case of a non-residential building or structure or, in the case of mixed-use building or structure, the non-residential uses in the mixed-use building or structure, an amount calculated by multiplying the greater of the applicable development charges under subsection 3.9 or the calculated rate within the Municipality of Leamington Development Charges Background Study, December 21, 2020, by the gross floor area that has been or will be demolished or converted to another principal use; provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.
- c) Where an existing Building is converted in whole or in part from one use (hereinafter referred to in this Section as the “First Use”) to another use,
 - (i) the amount of Development Charges payable shall be reduced by the amount, calculated pursuant to this By-law at the current Development Charges rates in respect of the First Use;
 - (ii) the First Use shall be the use as confirmed through the Municipality’s Building Division and related permit records;
 - (iii) for greater certainty, and without limiting the generality of the foregoing, no credit shall be allowed where the converted Building or part thereof would have been exempt pursuant to this By-law; and
 - (iv) the amount of any credit pursuant to this Section shall not exceed, in total, the amount of the Development Charges otherwise payable pursuant to this By-law with respect to the Redevelopment.

Amount of Charges

Residential

- 3.10 The development charges set out 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, including the residential component of a live/work unit, 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

- 3.11 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, including the non-residential component of a live/work unit, and calculated with respect to each of the services according to the total floor area of the non-residential use.

Time of Calculation and Payment of Development Charges

- 3.12 Development charges imposed under this By-law are calculated, payable, and collected upon issuance of the first building permit for the development.
- 3.13 Notwithstanding subsection 3.12, the timing of calculation and payment of the services related to a highway component of development charge with respect to an approval of a Plan of Subdivision under section 51 of the Planning Act, R.S.O., 1990 as amended, shall be addressed in the subdivision agreement, subject to any applicable exemptions contained in this By-law, and calculated in accordance with subsections 3.8 and 3.9 and of this by-law.
- 3.14 Notwithstanding subsections 3.10 and 3.12, 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 occupancy, and each subsequent installment, including interest as provided in the Municipality's Council approved development charge interest policy, as may be revised from time to time.

- 3.15 Notwithstanding subsections 3.10 and 3.12, development charges for non-profit housing developments are due and payable in 21 installments commencing with the first installment payable on the date of occupancy, and each subsequent installment, including interest as provided in the Municipality's Council approved development charge interest policy, as may be revised from time to time.
- 3.16 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 two years of building permit issuance, the development charges under subsections 3.9 and 3.10 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 as provided in the Municipality's Council approved development charge interest policy, as may be revised from time to time, payable on the anniversary date each year thereafter, set out in Schedule "B" on the date of the later planning application, including interest.
- 3.17 Despite subsections 3.9 to 3.16, and in accordance with section 27 of the Act, Council from time to time, and at any time, 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.

4.0 **Alternative Payment Agreements**

- 4.1 Council may enter into an agreement under section 27 of the Act, in a form and having content satisfactory to the Municipality's solicitor and having content satisfactory to the Treasurer, with any person who is required to pay a development charge providing for all or any part of the development charge to be paid before or after it would otherwise be payable.
- 4.2 Council directs the Chief Building Official or his or her designate to withhold the issuance of a building permit in relation to a building on land to which the development charge applies unless the development charge has been paid.

5.0 **Payment by Services**

- 5.1 Payment of development charges shall be by debit, bank draft or certified cheque or as otherwise approved at the sole discretion of the Treasurer.
- 5.2 In the alternative to payment by the means provided in section 5.1 herein, the Municipality may, by a written agreement entered into with the owner, accept the provision of services in full or partial satisfaction of the development charges otherwise payable.
- 5.3 If the Municipality and the owner cannot agree as to the reasonable cost of doing the work under section 5.2, the dispute shall be referred to Council whose decision shall be final and binding.
- 5.4 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 or that local connections to storm drainage facilities be installed at the owner's expense.
- 5.5 Any refund or credit required to be given by the Municipality to an owner shall be in relation to a service as per subsection 39(1) of the Act. The Municipality may agree by agreement to provide a credit in relation to another service as per subsection 39(3) of the Act or may provide for another basis for recovery.
- 5.6 If development charges or any part thereof payable pursuant to this By-law remain unpaid after such charges are payable, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as taxes.

6.0 **Indexing**

6.1 Development charges imposed pursuant to this by-law shall be adjusted annually on January 1st of each year, without amendment to this by-law in accordance with the Act, beginning on January 1, 2023.

7.0 **Schedules**

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

Schedule A - Components of Services Designated in subsection 2.1

Schedule B - Residential and Non-Residential Development Charges

8.0 **Date By-law in Force**

8.1 This By-law shall come into force on the 27th day of July, 2022.

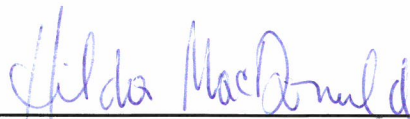
9.0 **Date By-law Expires**

9.1 This By-law will expire on the 27th day of July, 2027 unless it is repealed at an earlier date.

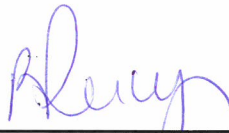
READ A FIRST AND SECOND TIME THIS 26th DAY OF JULY, 2022.

READ A THIRD TIME AND FINALLY PASSED THIS 26th DAY OF JULY, 2022.

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON



Hilda MacDonald, Mayor



Brenda Percy, Clerk

Schedule "A"
To By-law 49-22

Components of Services and Classes of Services Designated in Subsection 2.1

D.C.-Eligible Services:

Services Related to a Highway

 Roads and Related Infrastructure

Fire Protection Services

 Fire Facilities

 Fire Vehicles

 Fire Small Equipment and Gear

Parks and Recreation Services

 Parkland Development

 Parkland Amenities

 Park Trails

 Parks and Recreation Vehicles and Equipment

 Recreation Facilities

Policing Services

 Policing Facilities

 Policing Equipment and Gear

Wastewater Services

 Treatment and Collection System

Water Services

 Distribution System

Schedule "A"
To By-law 49-22

Components of Services and Classes of Services Designated in Subsection 2.1

D.C.-Eligible Classes:

Public Works

Facilities

Vehicles and Equipment

Growth Studies

Services Related to a Highway

Water Services

Wastewater Services

Fire Protection Services

Parks and Recreation Services

Policing Services

Schedule "B"
To By-law 49-22
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	On-Farm Bunk Houses (per capita)	Industrial, Commercial & Institutional (per sq.ft. of Gross Floor Area)	Greenhouse (per sq.ft. of Gross Floor Area)
Municipal Wide Services/Class of Service:								
Services Related to a Highway	3,758	2,189	1,908	1,475	1,232	1,120	1.562	0.062
Public Works	191	111	97	75	63	57	0.079	0.003
Fire Protection Services	442	258	224	173	145	132	0.184	0.007
Policing Services	72	42	37	28	24	21	0.030	0.001
Parks and Recreation Services	1,934	1,127	982	759	634	577	0.056	0.003
Growth Studies	373	217	189	146	122	111	0.162	0.007
Total Municipal Wide Services/Class of Services	6,770	3,944	3,437	2,656	2,220	2,018	2.073	0.083
Municipal-Wide Water Serviced Area								
Water Services	2,452	1,429	1,245	962	804	556	1.046	0.397
Total Water Serviced Area	9,222	5,373	4,682	3,618	3,024	2,575	3.119	0.480
Urban Wastewater Serviced Area								
Wastewater Services	601	350	305	236	197	-	0.247	-
Total Urban Water and Wastewater Serviced Area	9,823	5,723	4,987	3,854	3,221	2,575	3.366	0.480