



Town of Whitby

By-law # 7255-17

Development Charges By-law

Being a By-law to establish Development Charges for the Corporation of the Town of Whitby.

Whereas subsection 2(1) of the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended (hereinafter called the "Act") provides that the council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies;

And Whereas a Development Charges Background Study for The Corporation of the Town of Whitby (the "Town of Whitby") was prepared by Hemson Consulting Ltd. and dated December 7, 2016 (the "Study") as required by section 10 of the Act, and was presented to Council along with a draft of this by-law as then proposed on January 23, 2017 and was completed within a one-year period prior to the enactment of this by-law;

And Whereas notice of a public meeting was given pursuant to subsection 12(1) of the Act and in accordance with the regulations under the Act, on or before December 21, 2016;

And Whereas copies of the Study and this proposed by-law were made available to the public in accordance with subsection 10(4) and 12(1) of the Act;

And Whereas a public meeting was held on January 23, 2017 in accordance with the Act to hear comments and representations from all persons who applied to be heard (the "Public Meeting");

And Whereas at the Public Meeting, the Council of the Town of Whitby had before it the Study, wherein it is indicated that the development of any land within the Town of Whitby will increase the need for services as defined herein;

And Whereas the Council of the Town of Whitby 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, and the public was generally afforded the opportunity to make written submissions relating to this proposed by-law and the Study;

And Whereas the Council of the Town of Whitby on January 23, 2017 approved the Study, in which certain recommendations were made relating to the establishment of a development charge policy for the Town of Whitby pursuant to the Act;

And Whereas by the recommendations identified in the staff report approved by the Council of the Town of Whitby on March 20, 2017, Council determined that the increase in the need for services attributable to the anticipated development as contemplated in the Study, as modified, including any capital costs, will be met by updating the capital budget and forecast for the Town and provided that sufficient development charge revenues are generated, where appropriate;

And Whereas by resolution adopted by the Council of the Town of Whitby on March 20, 2017, Council approved the Study and determined that no further public meetings were required under subsection 12(3) of the Act;

And Whereas by the recommendations identified in the staff report approved by the Council of the Town of Whitby on March 20, 2017, Council determined that the future excess capacity identified in the Study, as modified, shall be paid for by the development charges contemplated in the Study, or other similar charges;

And Whereas the Council of the Town of Whitby 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 uniform basis;

And Whereas the Study includes a Cost of Growth Analysis that deals with all assets whose capital costs are intended to be funded under this by-law, and that such assets are considered to be financially sustainable over their full life-cycle;

And Whereas the Council of the Town of Whitby approve the asset management plan outlined in the Study and give consideration to incorporate the asset management plan identified in the Study within the Town's ongoing practices and corporate asset management strategy;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

Definitions

1. In this by-law,

- (1) "Act" means the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended or any successor thereto;
- (2) "agricultural use" means lands, buildings or structures, excluding any portion thereof used as a dwelling unit or for a retail commercial use, used or designed or intended for use for the purpose of a bona fide farming operation including, but not limited to, animal husbandry, dairying, livestock, fallow, field crops, removal of sod, forestry, fruit farming, greenhouses, horticulture, market gardening, pasturage, poultry keeping, and equestrian facilities;
- (3) "apartment dwelling unit" means a dwelling unit in an apartment building;
- (4) "apartment building" means a residential building, which is not any other residential dwelling type defined in this by-law, consisting of more than four (4) apartment dwelling units, which dwelling units generally have separate entrances onto interior corridors and which corridors give access, directly or through stairwells or elevators, to the exterior of the building through a common principal entrance;

- (5) “back-to-back townhouse dwelling” means a building containing a minimum of six (6) and a maximum of sixteen (16) dwelling units that are divided vertically by common walls, including a common rear wall, where each dwelling unit has a separate entrance to grade;
- (6) “bedroom” means any room used or designed or intended principally for use as sleeping quarters with a window or access to natural light in accordance with the requirements of the Building Code Act and includes a den, a study or other similar area with or without a window or access to natural light but does not include a living room, dining room, or kitchen;
- (7) “board of education” means a “board” as defined in subsection 1(1) of the *Education Act*, R.S.O. 1990, c. E.2, as amended or any successor thereto;
- (8) "bona fide farm use" means the proposed development will qualify as a farm business operating with a valid Farm Business Registration Number issued by the Ontario Ministry of Agriculture, Food and Rural Affairs and be assessed in the Farmland Realty Tax Class by the Municipal Property Assessment Corporation;
- (9) "building" means a structure that occupies greater than 10 square metres consisting of a wall, roof, and floor or any of them or a structural system servicing the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto and a structure occupying an area of 10 square metres or less that contains plumbing, including the plumbing appurtenant thereto and includes, but is not limited to, an above grade storage tank, air supported structures and industrial tents;
- (10) “Building Code Act” means the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended, and all regulations made under it including the Building Code, as amended, or any successor thereto;
- (11) “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,
 - (a) to acquire land or an interest in land, including a leasehold interest;
 - (b) to improve land;
 - (c) to acquire, lease, construct or improve buildings and structures;
 - (d) to acquire, lease, construct or improve facilities including,
 - (i) rolling stock with an estimated useful life of seven (7) years or more,
 - (ii) furniture and equipment, other than computer equipment, and
 - (iii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries*

Act, R.S.O. 1990, c. P.44, as amended or any successor thereto;

- (e) to undertake studies in connection with any matter under the Act and any of the matters referred to in clauses (a) to (d) inclusive, including the development charge background study required for the provision of services designated in this by-law within or outside the municipality;
- (f) to pay interest on borrowing for those expenditures referred to in clauses (a) to (e) inclusive that are growth related;
- (12) “complete building permit application” for the purposes of section 20(6) of this by-law means a building permit application as defined in the Ontario Building Code and that is considered complete by the Chief Building Official (CBO) including payment of all applicable building permit fees;
- (13) “Council” means the Council of The Corporation of the Town of Whitby;
- (14) “development” means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 15 of this by-law and includes the redevelopment of land or the redevelopment, expansion, extension or alteration of a use, except interior alterations to an existing building which do not change or intensify the use of land;
- (15) “development charge” (or “development charges”) means a charge (or charges) imposed pursuant to this by-law;
- (16) “duplex dwelling house” means a building that is divided horizontally, into two separate dwelling units each of which has an independent entrance either directly from the outside or through a common vestibule;
- (17) “dwelling” means a place of residence;
- (18) “dwelling unit” means a dwelling comprised of a room or suite of rooms used or designed or intended for use by one (1) or more persons living together in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;
- (19) “existing industrial” for the purposes of section 12 of this by-law means an industrial building or buildings existing on a site in the Town of Whitby on April 1, 2017 or the first building or buildings constructed and occupied on a vacant site pursuant to site plan approval under section 41 of the Planning Act subsequent to April 1, 2017 for which full development charges were paid;
- (20) “fourplex dwelling” means a building that is divided both horizontally and vertically into four (4) dwelling units each of which has an independent entrance either directly from the outside or through a common vestibule;

- (21) "garden suite dwelling" means a detached dwelling that is ancillary to an existing dwelling and is intended to be used and is used for a limited period of time;
- (22) "grade" means the average level of finished ground adjoining a building at all exterior walls;
- (23) "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 grade; and, for the purposes of this definition, in a mixed-use building the gross floor area of any area common to the residential and non-residential parts of such mixed-use building shall be allocated one-half to the residential part of the building and one-half to the non-residential part of the building;
- (24) "high density residential development" means an apartment dwelling of a minimum of four (4) storeys or containing more than sixty-five (65) dwelling units per net hectare;
- (25) "hospital" means land, buildings or structures used, or designed or intended for use as a hospital, as defined in section 1 of the *Public Hospitals Act*, R.S.O 1990, c. P.40, as amended or any successor thereto;
- (26) "hotel/motel" means a commercial establishment offering lodging to the traveling public and that may provide other services such as restaurants, meeting rooms and retail stores and services that are available to the general public;
- (27) "industrial" means a building or a portion thereof that is used or designed or intended to be used for:
 - (a) manufacturing, producing, processing, warehousing, storage or distributing and includes a greenhouse;
 - (b) research or development in connection with manufacturing, producing or processing;
 - (c) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production, or processing takes place; or
 - (d) office or administrative purposes, if carried out with respect to manufacturing, producing, processing, warehousing, storage or distribution and in the building used for the manufacturing, producing, storage or distribution or attached to the building, but "industrial" shall not include "retail commercial" as defined in this by-law;
- (28) "institutional" means a building or a portion thereof that is used or designed or intended to be used by an organized body, society or religious group for

promoting a public or non-profit purpose and shall include, without limiting the generality of the foregoing, a place of worship and a hospital;

- (29) “local board” has the same meaning as defined in section 1 of the Act;
- (30) “medical office” means, for the purposes of section 14(3) of this by-law, a building or a portion thereof that is used or designed or intended to be used for professional offices by medical practitioners licensed by the College of Physicians and Surgeons of Ontario and ancillary facilities related to the delivery of services by medical practitioners;
- (31) “mixed use” means any land or building or portion thereof that is used or designed or intended to be used for both residential and non-residential uses;
- (32) “mobile home dwelling” means any dwelling that is designed to be mobile, and constructed or manufactured to provide a permanent or temporary dwelling unit for one or more persons, but does not include a recreational vehicle, travel trailer tent trailer or trailer otherwise designed;
- (33) “non-residential” means any land or building, or a portion thereof, that is used or designed or intended to be used for a use other than a residential use including without limiting the generality of the foregoing, “retail commercial”, “office”, “medical office”, “industrial” and “institutional”;
- (34) “office” means a building or a portion thereof that is used or designed or intended to be used for the practice of a profession, the carrying on of a business or occupation, or the conduct of a non-profit organization including the premises of a bank or other financial institution which are not a retail branch of that bank or other financial institution, but “office” shall not include “retail commercial” or “industrial” or “institutional” as defined in this by-law;
- (35) “other non-residential” means any land or building or portion thereof that is used or designed or intended to be used for a non-residential use other than “retail commercial” including without limiting the generality of the foregoing, “office”, “medical office”, “industrial” and “institutional”;
- (36) “parking structure/garage” means a building provided exclusively for the purpose of vehicle parking;
- (37) “place of worship” means that part of a building used or designed or intended to be used for worship and that is exempt from taxation as a place of worship under the *Assessment Act*, R.S.O. 1990, c. A.31, as amended or any successor thereto;
- (38) “Planning Act” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended or any successor thereto;
- (39) “public post-secondary institution” means a building or a portion thereof that is used or designed or intended to be used for a university or college, offering a

degree or diploma recognized by the Province of Ontario, but shall not include a private career college or private post-secondary school;

- (40) "redevelopment" means the construction, erection or placing of one or more buildings on land where all or part of a building has previously been demolished on such land, or changing the use of a building from a residential use to a non-residential use or from a non-residential use to a residential use, or changing a building from one form of residential use to another form of residential use or from one form of non-residential use to another form of non-residential use;
- (41) "residential" means a building or a portion thereof that is used or designed or intended to be used as a residence of one (1) or more individuals, and shall include, but is not limited to, a single detached dwelling, a semi-detached dwelling, a duplex dwelling house, a semi-detached duplex, a tri-plex dwelling, a four-plex dwelling, a row townhouse, a back-to-back townhouse, a stacked townhouse, an apartment dwelling, a mobile home dwelling, a garden suite dwelling, a retirement home, a special care/special needs dwelling and a residential dwelling unit accessory to a non-residential use;
- (42) "retail commercial" means a building or a portion thereof that is used or designed or intended to be used for the sale or rental or offer for sale or rental of goods or services to the general public for consumption or use and shall include, but not be limited to:
- (a) ancillary facilities and uses of any kind that support or are related to the sale, rental or service use;
 - (b) restaurant uses;
 - (c) hotel/motel uses;
 - (d) storage or warehousing areas which are used, designed or intended to be used in connection with sales, service or rental areas;
 - (e) warehouse clubs or similar uses;
 - (f) self-storage units;
 - (g) secure document storage;
 - (h) a branch of a bank or other financial institution, (including credit unions), that offers banking services to consumers and businesses; and
 - (i) the sale or rental of goods or services where membership is a precondition to a person being able to acquire the goods or services at that place, but "retail commercial" shall not include office uses that are located in the same building;
- (43) "retirement home" means a residential complex or part of a residential complex as defined in the *Retirement Homes Act, 2010*, S.O. 2010, c. 11, as amended or any successor thereto;

- (44) "retirement home dwelling unit" means a unit located within a retirement home comprised of a room or suite of rooms used or designed or intended for use by one (1) or more persons living together in which sanitary facilities are present in the unit for the exclusive use of such person or persons, but culinary facilities may or may not be present in the unit for the exclusive use of such person or persons;
- (45) "row townhouse dwelling" means a building containing at least three (3) dwelling units, with each dwelling unit separated vertically from the other(s) by a party wall and with each dwelling unit having an independent entrance directly from the outside;
- (46) "semi-detached dwelling" means a building divided by a common wall or a connecting wall to contain two (2) dwelling units, each of which has an independent entrance directly from the outside;
- (47) "semi-detached duplex dwelling" means a building containing two (2) duplex dwellings attached by a common vertical wall;
- (48) "single detached dwelling" means a building containing one (1) dwelling unit which is freestanding, separate and detached from other main buildings, but does not include a garden suite dwelling or a mobile home dwelling;
- (49) "special care/special needs dwelling" means a building or portion of a building containing more than three (3) special care/special needs dwelling units, licensed as a long-term care home under the *Long-Term Care Homes Act, 2007*, S.O. 2007, c. 8, as amended or any successor thereto, or as a home for special care under the *Homes for Special Care Act*, R.S.O. 1990, c. H.12, as amended or any successor thereto, or as a children's residence under the *Child and Family Services Act*, R.S.O. 1990, c. C.11, as amended or any successor thereto, or a residential hospice but does not include a retirement home under the *Retirement Homes Act*;
- (50) "special care/special needs dwelling unit" means a unit located within a special care/special needs dwelling, where such units may or may not have exclusive sanitary or culinary facilities, or both, and which have a common enclosed entrance from street level, where the occupants have the right to use, in common, halls, stairs, yards, common rooms and accessory buildings and which are used or designed or intended for use by individuals with special needs, including an independent long-term living arrangement, where support services such as meal preparation, grocery shopping, laundry, housekeeping, nursing, respite care and attendant services are provided as appropriate to the individuals;

- (51) “stacked townhouse dwelling” means a building containing more than four (4) dwelling units, each of which has a vertical and a horizontal wall in common and each of which has an independent entrance directly from the outside;
- (52) “Town” means The Corporation of the Town of Whitby; and
- (53) “tri-plex dwelling” means a building that is divided horizontally, into three dwelling units each of which has an independent entrance either directly from the outside or through a common vestibule.

Designation of Service

- 2. It is hereby declared by the Council of the Town that all development and redevelopment of land within the Town will increase the need for services.
- 3.(1) The categories of service for which development charges are imposed under this by-law are as follows:
 - a) General Government
 - b) Non-Administrative Operational Facilities
 - c) Library Services
 - d) Fire Services
 - e) Operation Services
 - f) Parks & Recreation
 - g) Parking & By-law
 - h) Waste Management
 - i) Roads & Related – Town-wide Infrastructure
 - j) Roads & Related – Alternate Route and Related Infrastructure
 - k) Stormwater Management
- (2) A development charge shall include:
 - a) a charge in respect of General Government;
 - b) a charge in respect of Non-Administrative Operational Facilities;
 - c) a charge in respect of Library Services;
 - d) a charge in respect of Fire Services;
 - e) a charge in respect of Operation Services;
 - f) a charge in respect of Parks & Recreation;
 - g) a charge in respect of Parking & By-law;
 - h) if Waste Management services are provided, a charge in respect to Waste Management;
 - i) a charge in respect of Roads & Related – Town-wide Infrastructure
 - j) a charge in respect of Roads & Related – Alternate Route and Related Infrastructure; and
 - k) a charge in respect of Stormwater Management.

Calculation of Development Charges

4. (1) Subject to the provisions of this by-law, development charges against land in the Town shall be imposed, calculated and collected in accordance with the base rates set out in Schedules “B” and “C” which relate to the services set out in Schedule “A” to this by-law.
- (2) The development charge with respect to the use of any land or building shall be calculated as follows:
 - (a) in the case of residential development or redevelopment, or a residential portion of a mixed-use development or redevelopment, the sum of the product of the number of dwelling units of each type multiplied by the corresponding total dollar amount for such dwelling unit type, as set out in Schedule “B”;
 - (b) in the case of non-residential development or redevelopment, or a non-residential portion of a mixed-use development or redevelopment, the development charge shall be the gross floor area of the type of non-residential use multiplied by the corresponding total dollar amount per square metre of gross floor area for the type of non-residential use, as set out in Schedule “C”;
 - (c) where a non-residential development has both retail commercial and other non-residential uses, development charges will be imposed against the retail commercial portion and the other non-residential portion gross floor areas of the building as though the uses were separate.

Retirement Home Dwelling Unit

5. Notwithstanding the grouping of types of residential dwellings in Schedule “B”, the development charges imposed on a retirement home dwelling unit shall be payable at the rate applicable to a dwelling unit in the type of dwelling identified in Schedule “B” within which the retirement home dwelling unit is located.

Mobile Home Dwelling Unit

6. (1) The development charges paid in regard to a mobile home dwelling unit shall be refunded in full to the then current owner thereof, upon request, if the mobile home dwelling unit is demolished or removed within ten (10) years of the issuance of the first building permit relating thereto.
- (2) The onus is on the applicant to produce evidence to the satisfaction of the Town, acting reasonably, which establishes that the applicant is entitled to the refund claimed under this section.

Garden Suite Dwelling Unit

7. (1) The development charges paid in regard to a garden suite dwelling unit shall be refunded in full to the then current owner thereof, upon request, if the garden suite dwelling unit is demolished or removed within ten (10) years of the issuance of the first building permit relating thereto.
- (2) The onus is on the applicant to produce evidence to the satisfaction of the Town, acting reasonably, which establishes that the applicant is entitled to the refund claimed under this section.

Phase-In of Development Charges and Transition Provisions

8. The development charges imposed pursuant to this by-law are not proposed to be phased-in.

Applicable Lands

9. Subject to sections 4, 5, 6, 7, and 8 of this by-law, this by-law applies to all lands in the Town of Whitby, 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, as amended or any successor thereto.

Intensification of Existing Housing

10. (1) Pursuant to subsection 2(3) of the Act, no development charge shall be imposed with respect to the following:
 - (a) the enlargement of an existing dwelling unit;
 - (b) the creation of one (1) or two (2) additional dwelling units in an existing single detached dwelling where the total gross floor area of the additional unit or units does not exceed the gross floor area of the dwelling unit already in the building;
 - (c) the creation of one (1) additional dwelling unit in any existing semi-detached dwelling or row townhouse dwelling provided the gross floor area of the additional unit is equal to or less than the gross floor area of the dwelling unit already in the building; or
 - (d) the creation of one (1) additional dwelling unit in any existing residential building other than identified in subsections 10(1)(b) and (c) provided the gross floor area of the additional unit is less than or equal to the gross floor area of the smallest dwelling unit already in the building.

- (2) Where the requirements of subsection 10(1)(b) of this by-law are not met, development charges shall be calculated and collected in accordance with Schedule “B” for any additional dwelling units.
- (3) Where the requirements of subsection 10(1)(c) of this by-law are not met, development charges shall be calculated and collected in accordance with Schedule “B” for any additional dwelling units.
- (4) Where the requirements of subsection 10(1)(d) of this by-law are not met, development charges shall be calculated and collected in accordance with Schedule “B” for any additional dwelling units.

Exemption Municipal and School Board Pursuant to Section 3 of the Act

11. Land owned by and used for the purposes of the Town, the Regional Municipality of Durham or a board as defined in subsection 1(1) of the *Education Act* is exempt from a development charge as required by section 3 of the Act.

Exemption for Industrial Development Pursuant to Section 4 of the Act

12. (1) If a development includes the enlargement of the gross floor area of an existing industrial building and if the gross floor area is enlarged by fifty percent (50%) or less before the first enlargement for which an exemption from the payment of development charges was granted pursuant to subsection 4(2) of the Act or this section, the amount of the development charge in respect of the enlargement is zero.
- (2) If a development includes the enlargement of the gross floor area of an existing industrial building and if the gross floor area is enlarged by more than fifty percent (50%), development charges in accordance with Schedule “C” are payable on the amount of the enlargement that exceeds fifty percent (50%) of the gross floor area before the enlargement as required by subsection 4(3) of the Act.

Rules With Respect to Exemptions

13. Lands owned by and used for the purposes of the following shall be exempt from the payment of development charges:
 - (1) a local board;
 - (2) the development of a non-residential farm building, used for bona fide farm uses;
 - (3) a place of worship;
 - (4) a hospital;
 - (5) a special care/special needs dwelling unit owned by a charitable organization or a non-profit organization as approved under the Income Tax Act;

- (6) a temporary use permitted under a Zoning By-law amendment enacted under section 39 of the Planning Act;
- (7) temporary erection of a building without foundation as defined in the Building Code Act for a period not exceeding six (6) consecutive months and not more than six (6) months in any one calendar year on a site for which development charges or lot levies have previously been paid;
- (8) parking structure/garage; or
- (9) facilities, buildings and/or structures owned and operated by a public post secondary institution.

Rules With Respect to Partial Exemptions

14. (1) Where an existing retail commercial or office building located within the Downtown Community Improvement Plan Areas as defined in Schedule “D” — Map 1 and Map 2 to this by-law is enlarged by no greater than fifty percent (50%) of the presently existing gross floor area or 5,000 square feet, whichever is less, such enlargement is exempt from the payment of development charges.
- (2) Where the gross floor area of a new office development exceeds 2,323 square metres (25,000 square feet), the total development charges shall be either a) fifty percent (50%) of the amount that would otherwise be payable from April 1, 2017 to March 31, 2019; b) seventy five percent (75%) of the amount that would otherwise be payable from April 1, 2019 to March 31, 2021; or c) one hundred percent (100%) of the amount that would otherwise be payable from April 1, 2021 to the end of the by-law term.
- (3) Where the gross floor area of a new office (not including a medical office) development located in the C3-DT and C1-VB commercial zones, as defined in the Town’s Zoning By-law, as amended, exceeds 90 square metres (968 square feet), the total development charges shall be either a) fifty percent (50%) of the amount that would otherwise be payable from April 1, 2017 to March 31, 2019; b) seventy five percent (75%) of the amount that would otherwise be payable from April 1, 2019 to March 31, 2021; or c) one hundred percent (100%) of the amount that would otherwise be payable from April 1, 2021 to the end of the by-law term.
- (4) Where the gross floor area of a new industrial use development exceeds 2,323 square metres (25,000 square feet), the total development charges shall be either a) fifty percent (50%) of the amount that would otherwise be payable from April 1, 2017 to March 31, 2019; b) seventy five percent (75%) of the amount that would otherwise be payable from April 1, 2019 to March 31, 2021; or c) one hundred percent (100%) of the amount that would otherwise be payable from April 1, 2021 to the end of the by-law term.

- (5) Where high density residential development is located within the Downtown Community Improvement Plan Areas as defined in Schedule “D” — Map 1 and Map 2 to this by-law, the total development charges shall be either a) fifty percent (50%) of the amount that would otherwise be payable from April 1, 2017 to March 31, 2019; or b) one hundred percent (100%) of the amount that would otherwise be payable from April 1, 2019 to the end of the by-law.

Development Charges Imposed

15. (1) Development charges shall be calculated and collected in accordance with the provisions of this by-law and be imposed on land to be developed for residential or non-residential use or both where the development requires:
- (a) the passing of a zoning by-law or 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 9 of the *Condominium Act, 1998*, S.O. 1998, c. 19 as amended or any successor thereto; or
 - (g) the issuing of a permit under the Building Code Act, in relation to a building or structure.
- (2) Subsection 15(1) of this by-law shall not apply in respect to:
- (a) local services installed or paid for by the owner within a plan of subdivision or within the area to which the plan relates, as a condition of approval under section 51 of the Planning Act; or
 - (b) local services installed or paid for by the owner as a condition of approval under section 53 of the Planning Act.

Local Service Installation

16. 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, shall install or pay for such local services, within the plan of subdivision or within the area to which the plan relates, as Council may require, or that the owner pay for the local connection to a storm drainage facility and associated administration, processing or inspection fees, related to the approval or within the area to which the approval relates.

Multiple Charges

17. (1) Where two (2) or more of the actions described in subsection 15(1) of this by-law 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 17(1) of this by-law, if two or more of the actions described in subsection 15(1) of this by-law 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 non-residential floor area, shall be calculated and collected in accordance with the provisions of this by-law.
- (3) If a development does not require a building permit but does require one or more of the actions described in subsection 15(1) of this by-law, then the development charge shall nonetheless be payable in respect of any increased or additional development permitted by such action.

Services In Lieu

18. (1) Council may authorize an owner, through a credit agreement under section 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 section 39 of the Act, equal to the reasonable cost to the owner of providing the services in lieu, as determined by the Town. In no case shall the agreement provide for a credit which exceeds the total development charge payable by an owner to the Town in respect of the development to which the agreement relates.
- (2) In any agreement under subsection 18(1) of this by-law, Council may also give a further credit to the owner equal to the reasonable cost of providing services in addition to, or of a greater size or capacity, than would be required under this by-law.
- (3) The credit provided for in subsection 18(2) of this by-law shall not be charged to any development charge reserve fund.

Rules With Respect to Redevelopment

19. In the case of the demolition of all or part of a residential, non-residential or mixed-use building:

- (1) A credit shall be allowed, provided that the land was improved by occupied buildings within the five (5) years prior to the issuance of the building permit, and the building permit has been issued for the development or redevelopment within five (5) years from the date the demolition permit has been issued.
- (2) If a development or redevelopment involves the demolition of and replacement of a building, or the conversion from one principal use to another, a credit shall be allowed equivalent to:
 - (a) the number of dwelling units demolished/converted multiplied by the applicable residential development charge in place at the time the development charge is payable; and/or
 - (b) the gross floor area of the building demolished/converted multiplied by the applicable non-residential development charge in place at the time the development charge is payable; and/or
 - (c) in the case of a mixed-use building,
 - (i) for the residential portion of the building, the number of dwelling units demolished/converted multiplied by the applicable residential development charge in place at the time the development charge is payable, and
 - (ii) for the non-residential portion of the building, the gross floor area of the non-residential portion of the building multiplied by the applicable non-residential development charge in place at the time the development charge is payable.
- (3) The five (5) year period referred to in subsection 19(1) of this by-law shall be calculated from the date of the issuance of the first demolition permit.
- (4) Development charges shall not be reduced under this section where the building that is to be demolished or has been demolished or converted from one principal use to another was, or would have been, exempt from development charges under this by-law.
- (5) In no case will a credit exceed the amount of the development charge that would otherwise be payable and no credit is available if the existing land use is exempt from paying development charges under this by-law.

Timing of Calculation and Payment

20. (1) Development charges shall be calculated and payable in full in money or by provision of services as may be agreed upon, or by credit granted and defined by various references in the Act, on the date that the first building permit is issued in relation to a building on land to which a development charge applies.

- (2) Where development charges apply to land in relation to which a building permit is required, the building permit shall not be issued until the development charge has been paid in full.
- (3) Notwithstanding subsections 20(1) and 20(2) of this by-law, an owner and the Town may enter into an agreement to provide for the payment in full of a development charge before building permit issuance or later than the issuing of a building permit, in accordance with section 27 of the Act.
- (4) If a development does not require a building permit, the development charge shall be calculated and paid in full at the rate in effect at the time the approval is granted as a condition of the earliest of any of the approvals required for the development and enumerated in subsection 15(1) of this by-law.
- (5) Development charges for a high density residential development may be deferred up to an 18-month period after building permit issuance or when the first occupancy permit is issued, whichever is sooner, provided that:
 - (a) a deferral agreement is registered on title as of the date of building permit issuance;
 - (b) the development charges that would be otherwise payable at time of building permit issuance are secured by way of letter of credit for the full amount payable; and
 - (c) the full payment will be deducted from the posted letter of credit either 18-months after building permit issuance or when the first occupancy permit is issued, whichever is sooner.
- (6) Determination of the applicable development charges rate shall be subject to the following provision: complete building permit applications received prior to April 1, 2017 will be subject to the development charge rate in effect as of March 31, 2017 as long as all of the following provisions have been met;
 - (a) the application has been considered complete within 15 business days of being received;
 - (b) the building permit has been issued prior to July 1, 2017 and all fees and charges have been paid including development charges; and
 - (c) if an application is not complete, or if a building permit is revoked or not issued, it will be subject to the development charge rate in effect at the time of building permit issuance.

By-Law Registration

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

Reserve Funds

22. (1) Monies received from payment of development charges under this by-law shall be maintained in separate reserve funds as per the services set out in Schedule "A", plus interest earned thereon.
- (2) Monies received for the payment of development charges shall be used only in accordance with the provisions of section 35 of the Act.
- (3) 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.
- (4) Where any unpaid development charges are collected as taxes under subsection 22(3) of this by-law, the monies so collected shall be credited to the development charge reserve funds referred to in subsection 22(1) of this by-law.
- (5) The Treasurer of the Town shall, in each year, furnish to Council a statement in respect of the reserve funds established hereunder for the prior year, containing the information set out in section 43 of the Act and section 12 of O. Reg. 82/98, as amended or any successor thereto.

By-Law Amendment or Appeal

23. (1) Where this by-law or any development charge prescribed thereunder is amended or repealed either by order of the Ontario Municipal Board or by resolution of the Town Council, the Town Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal in accordance with the provisions of the Act.
- (2) Refunds that are required to be paid under subsection 23(1) of this by-law shall be paid with interest to be calculated as follows:
- (a) interest shall be calculated from the date on which the overpayment was collected to the date on which the refund is paid; and
- (b) the Bank of Canada interest rate in effect on the date of enactment of this by-law shall be used.
- (3) Refunds that are required to be paid under subsection 23(1) of this by-law shall include the interest owed under this section.

By-Law Indexing

24. (1) The development charges set out in Schedules "B" and "C" to this by-law shall be adjusted annually, as of January 1, 2018, and annually thereafter on January 1, while this by-law is in force, without amendment to this by-law, in accordance with the most recent twelve-month change in the Statistics

Canada Quarterly, "Construction Price Statistics" (Catalogue Number 62-007 CANISM Table 327-0043).

- (2) For greater certainty, the development set out in Schedules "B" and "C" to this by-law shall only be adjusted by the percentage change during the preceding year, as recorded in the Statistics Canada Quarterly, "Construction Price Statistics" (Catalogue Number 62-007 CANISM Table 327-0043), if there is an increase in the percentage change.

Severability

25. 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 considered to be severed, and the remaining portion of such provision and all other provisions of this by-law shall remain in full force and effect.

Headings for Reference Only

26. 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.

By-Law Administration

27. This by-law shall be administered by the Town's Corporate Services Department and the Planning and Development Department.

Schedules to the By-law

28. The following Schedules to this by-law form an integral part of this by-law:
- | | |
|----------------|---|
| Schedule "A" - | Designated Town Services Under this By-Law |
| Schedule "B" - | Residential Development Charges effective the date the by-law comes into force |
| Schedule "C" - | Non-Residential Development Charges effective the date the by-law comes into force |
| Schedule "D" - | Map 1 "Downtown Whitby Community Improvement Project Area" and Map 2 "Downtown Brooklin Community Improvement Project Area" |

Date By-Law Effective

29. This by-law shall come into full force and effect on April 1, 2017.

Date By-Law Expires

30. This By-law expires five (5) years after the day on which it comes into force.

Short Title

31. This by-law may be cited as the “Town of Whitby Development Charge By-law, 2017”

By-law read and passed this 20th day of March, 2017.

Original Approved and Signed

Don Mitchell, Mayor

Original Approved and Signed

Christopher Harris, Town Clerk

Schedule "A"

To By-law No. 7255-17

Designated Town Services Under This By-law

1. General Government
2. Non-Administrative Operational Facilities
3. Fire Services
4. Operations
5. Parks & Recreation
6. Libraries
7. Parking & By-law
8. Waste Management
9. Roads & Related – Town-wide Infrastructure
10. Roads & Related – Alternate Route and Related Infrastructure
11. Stormwater Management

Schedule "B"
To By-law No. 7255-17
Schedule of Residential Development Charges

Column A.	Column B.	Column C.	Column D.
<ul style="list-style-type: none"> • Single-Detached Dwelling Units • Semi-Detached Dwelling Units 	<ul style="list-style-type: none"> • Residential Dwelling Types Not Included in Columns A, C or D • Row Townhouse Dwelling Units with Three (3) or More Bedrooms 	<ul style="list-style-type: none"> • Apartment Dwelling Units with Two (2) or More Bedrooms • Row Townhouse Dwelling Units with Two(2) or Less Bedrooms • Mobile Home Dwelling Units 	<ul style="list-style-type: none"> • Apartment Dwelling Unit with One (1) or Less Bedrooms • Garden Suite Dwelling Units • Special Care/Special Needs Dwelling Units

Service	Column A	Column B	Column C	Column D	Percentage of Charge
General Government	\$994	\$794	\$586	\$381	4.8%
Non-Administrative Operational Facilities	\$160	\$128	\$95	\$62	0.8%
Fire Services	\$921	\$736	\$543	\$353	4.4%
Operations	\$642	\$512	\$378	\$246	3.1%
Parks & Recreation	\$6,173	\$4,929	\$3,639	\$2,367	29.6%
Libraries	\$1,094	\$874	\$645	\$420	5.3%
Parking & By-Law	\$170	\$136	\$100	\$65	0.8%
Waste Management	\$155	\$124	\$91	\$59	0.7%
Total General Services	\$10,309	\$8,233	\$6,077	\$3,953	49.5%
Roads & Related - Town-Wide Infrastructure	\$7,791	\$6,221	\$4,592	\$2,987	37.4%
Roads & Related - Alternate Route And Related Infrastructure	\$2,347	\$1,874	\$1,384	\$900	11.3%
Stormwater Management	\$373	\$297	\$220	\$143	1.8%
Total Engineered Services	\$10,511	\$8,392	\$6,196	\$4,030	50.5%
TOTAL TOWN-WIDE CHARGE PER UNIT	\$20,820	\$16,625	\$12,273	\$7,983	100.0%

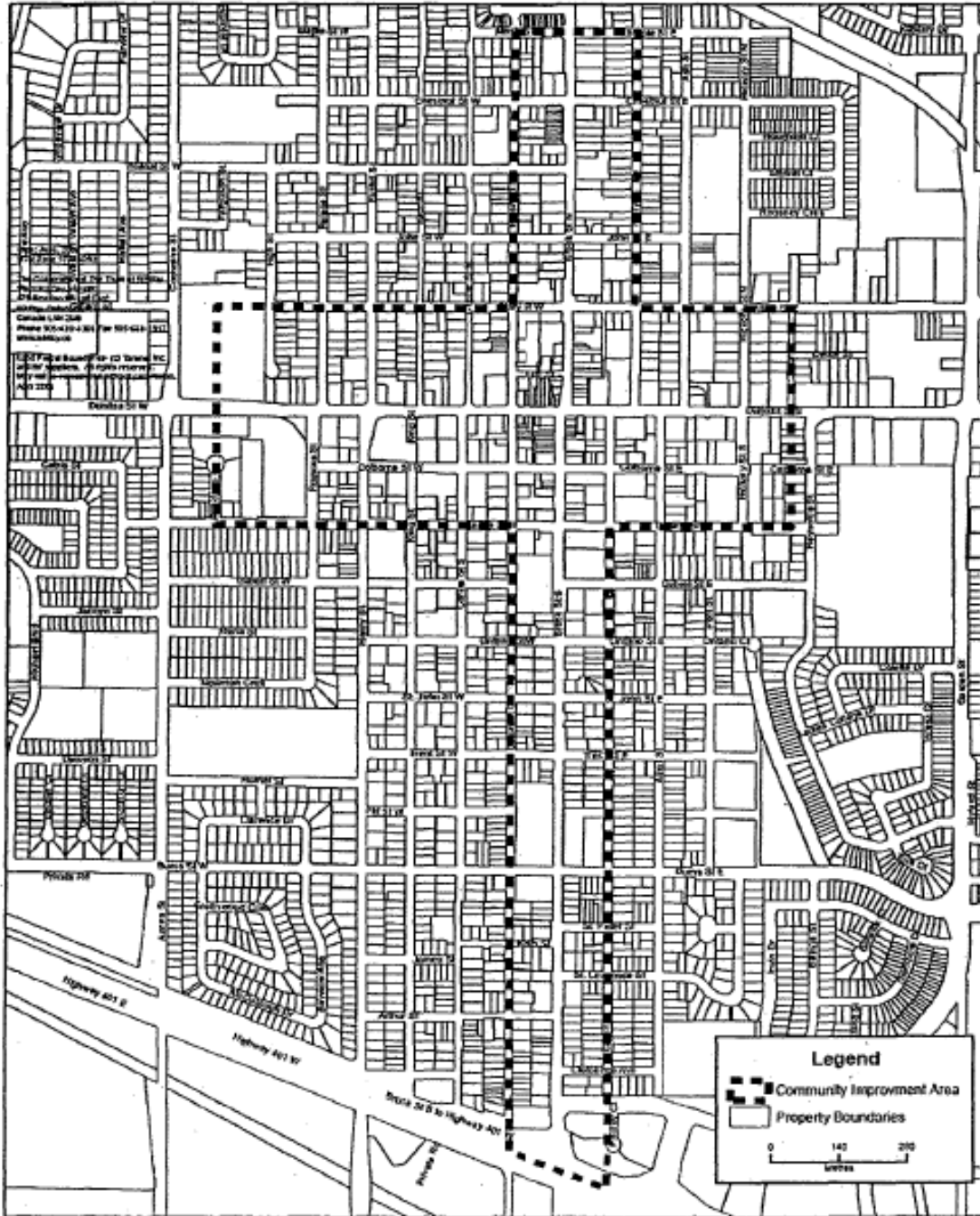
Schedule "C"
To By-law No. 7255-17
Schedule of Non-Residential Development Charges

Service	Retail Commercial		Other Non-Residential	
	Adjusted Charge per Square Metre	Percentage of Charge	Adjusted Charge per Square Metre	Percentage of Charge
General Government	\$6.86	7.4%	\$3.53	7.3%
Non-Administrative Operational Facilities	\$1.11	1.2%	\$0.57	1.2%
Fire Services	\$6.36	6.9%	\$3.28	6.7%
Operations	\$4.43	4.8%	\$2.28	4.7%
Parks & Recreation	\$0.00	0.0%	\$0.00	0.0%
Libraries	\$0.00	0.0%	\$0.00	0.0%
Parking & By-Law	\$1.17	1.3%	\$0.61	1.2%
Waste Management	\$0.00	0.0%	\$0.00	0.0%
General Services Charge Per Square Metre	\$19.93	21.5%	\$10.27	21.1%
Roads & Related - Town-Wide Infrastructure	\$53.90	58.2%	\$28.45	58.5%
Roads & Related - Alternate Route And Related Infrastructure	\$16.23	17.5%	\$8.58	17.6%
Stormwater Management	\$2.57	2.8%	\$1.35	2.8%
Engineered Services Charge Per Square Metre	\$72.70	78.5%	\$38.38	78.9%
TOTAL TOWN-WIDE CHARGE PER SQUARE METRE	\$92.63	100.0%	\$48.66	100.0%

SCHEDULE "D"

To By-law No. 7255-17

Map 1 – Downtown Whitby Community Improvement Project Area



Schedule "D"
To By-Law No. 7255-17
Map 2 – Downtown Brooklin
Community Improvement Project Area

