

CORPORATION OF THE CITY OF PEMBROKE

By-law No. 2011-15

Being a By-law to Establish Development Charges

WHEREAS AUTHORITY is given pursuant to the *Development Charges Act, 1997*, to Councils to pass by-laws for the imposition of development charges against land where the development of the land would increase the need for municipal services as designated in this by-law and the development requires one or more of the actions set out in subsection 2 (2 and 3) of the Act;

AND WHEREAS Council has investigated and expressed the intention to continue to provide a standard of service to future residents for fire protection services, police services, transportation services, environmental services and recreational and cultural services for benefiting areas within the City.

AND WHEREAS Council has prepared a development charges study per Section 10 of the Act, held a public meeting and heard all persons who applied to be heard in objection to, or in support of, the proposed development charges in accordance with Section 12 of the Act.

NOW THEREFORE, the Council of the Corporation of the City of Pembroke enacts as follows:

1.0 Short Title

- 1.1 That this By-law shall be known as the "Development Charges By-law".

2.0 Definitions

For the purposes of this By-law, the following definitions shall apply:

- 2.1 *Accessory* means when used to describe a use, building or structure that the use, building or structure is naturally or normally incidental, subordinate and exclusively devoted to a main use, building or structure located on the same lot therewith.
- 2.2 *Act* means the *Development Charges Act, 1997*.
- 2.3 *Building* means a structure having a roof supported by columns or walls or directly on the foundation and used for the shelter and accommodation of persons, animals or goods and without limiting the foregoing, includes buildings as defined in the *Building Code Act*.
- 2.4 *Capital Cost* means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or under an agreement:
- (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 life of seven years or more,
 - (ii) furniture and equipment other than computer equipment, and
 - (ii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*.

- (e) to undertake studies in connection with any of the matters in clauses (a) to (d),
 - (f) to prepare a development charges background study, and
 - (g) for interest on money borrowed to pay for costs described in clauses (a) to (d) above.
- 2.5 *Commercial Use* means any use permitted in a commercial zone other than a residential use as described by the zoning by-law of the municipality and any amendments thereto.
- 2.6 *Council* means the Municipal Council of the Corporation of the City of Pembroke.
- 2.7 *Designated Area* means an area defined by a map, by text, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction or purchase of a service or services.
- 2.8 *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 change of use thereof, and includes redevelopment.
- 2.9 *Development Charge* means a charge imposed against the 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.
- 2.10 *Dwelling Unit* shall mean one room or a group of rooms in a building used or designed and intended to be used as a single, independent, and separate house-keeping establishment in which food preparation and sanitary facilities are provided and which has a private entrance from outside the building or from a common hallway or stairway inside the building, but does not mean or include a tent, cabin, trailer, mobile home, seasonal residence or a room or suite of rooms in a boarding house, hotel, motel, motor hotel, or tourist home;
- 2.11 *Front-ending Agreement* means an agreement made under section 44 of the *Development Charges Act, 1997*.
- 2.12 *Grade* means the average level of proposed or finished ground adjoining a building at all exterior walls.
- 2.13 *Gross Floor Area* means the total area of all floors above *grade* measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of firewalls except that, in any other occupancy than a residential occupancy, where an access or a building service penetrates a firewall, measurements shall not be taken to the centerline of such firewall.
- 2.14 *H.S.T.* means the Federal Government's Harmonized Sales Tax.
- 2.15 *Industrial Building, Existing* means a building used for or in connection with:
- (a) manufacturing, producing, processing, storing or distributing something;
 - (b) research or development in connection with manufacturing, producing or processing something;

- (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;
 - (d) office or administrative purposes, if they are:
 - (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.
- 2.16 *Industrial Use* means the use of land, building or structures for the purpose of manufacturing, assembling, making, preparing, inspecting, ornamenting, finishing, treating, altering, repairing, warehousing, or storage or adapting for sale of any goods, substances, article or thing, or any part thereof and the storage of building and construction equipment and materials as distinguished from the buying and selling of commodities and the supplying of personal services or as otherwise defined in the zoning by-law.
- 2.17 *Local Board* means a local board as defined in the *Municipal Affairs Act*, other than a board defined in subsection 1 (1) of the *Education Act*.
- 2.18 *Local Services* means those services related to a plan of subdivision or within the area to which the plan relates, to be installed or paid for by the owner as a condition of approval under Section 51 or 53 of the *Planning Act*.
- 2.19 *Mobile Home* means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed.
- 2.20 *Multiple Dwelling* shall mean a residential use building containing more than two dwelling units.
- 2.21 *Municipality* shall mean the Corporation of the City of Pembroke;
- 2.22 *Net Capital Cost* means the capital cost less capital grants, subsidies and other contributions made to the *municipality* or that the Council of the *municipality* anticipates will be made, including conveyances or payments under Sections 51 and 53 of the *Planning Act* in respect of the capital cost.
- 2.23 *Non-Residential Uses* means uses of land, buildings or structures for purposes other than a dwelling unit and shall include commercial, institutional, industrial and other such uses.
- 2.24 *Owner* means the owner of land or a person who has made application for approval for the development of land upon which a development charge is imposed.
- 2.25 *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*.
- 2.26 *Residential Uses:* means uses of land, buildings or structures designed or intended to be used as living accommodations for one or more individuals.

- 2.27 *Row Dwelling* means a residential building that is divided vertically into three (3) or more dwelling units.
- 2.28 *Semi-detached dwelling* means a residential building that is divided vertically into two dwelling units, each of which has an independent entrance.
- 2.29 *Services* means municipal services designated in this By-law or in an agreement made under Section 27 of the *Act*, as applicable.
- 2.30 *Single Detached Dwelling* means a residential building consisting of one (1) dwelling unit.
- 2.31 *Square Metre or Square Foot* means that portion of a building or structure (expressed in metres or feet or any fraction thereof) actually depicted, described or utilized for any use as illustrated in a site plan under the *Planning Act* or the *Building Code Act*.
- 2.32 *Standard of Services* means those standards which govern the quantity, quality or form, method, delivery, operation or manner in which services are constructed or installed and which have been duly approved by Council and which comply with Section 5 (1) (4) of the *Development Charges Act, 1997*.
- 2.33 *Structure* means anything constructed or erected, either permanent or temporary, the use of which requires location on the ground or attachment to something having location on the ground.

3.0 Designated Areas

- 3.1 For the purposes of this By-law, the following designated area is established:
- 3.1.1 All lands, buildings and structures within the corporate limits of City of Pembroke except as otherwise exempted in this by-law.

4.0 Designated Services

- 4.1 The municipal services for which development charges shall be imposed are as follows, and as set out in Schedules "A" and "B" attached to and forming part of this By-Law:
- 4.1.1 Fire Services
- 4.1.2 Police Services
- 4.1.3 Transportation Services
- 4.1.4 Environmental Services
- 4.1.5 Recreation and Cultural Services
- 4.1.6 Other Services (Development Charges Study)

5.0 Designated Uses of Land, Buildings or Structures

- 5.1 The uses of land, buildings or structures for which development charges are hereby imposed are as follows, and are also as set out in Schedule "A" attached to and forming part of this By-Law:
- 5.1.1 Residential uses as defined in Section 2.26 of this By-Law.
- 5.1.2 Non-residential uses as defined in Section 2.23 of this By-Law.

6.0 Development Charges

- 6.1 Development charges shall apply to and shall be calculated and collected in accordance with the provisions this By-Law on land if the development of the land would increase the need for services and the development requires,
- (a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act*;
 - (b) the approval of a minor variance under section 45 of the *Planning Act*;
 - (c) A conveyance of land to which a by-law passed under section 50 (7) of the *Planning Act*;
 - (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
 - (e) a consent under section 53 of the *Planning Act*;
 - (f) the approval of a description under section 50 of the *Condominium Act*;
 - (g) the issuing of a permit under the *Building Code Act*, in relation to a building or structure.
- 6.1.1 Where two or more of the actions described in clauses 6.1 (a) to (g) are required before that 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.
- 6.1.2 Notwithstanding subsection 6.1.1, if two or more of the actions described in clauses 6.1 (a) to (g) occur at different times, and if the subsequent action has the effect of increasing the need for all or some of the services designated in Schedule "A", an additional development charge shall be calculated and collected in accordance with the provisions of this By-Law.

6.2 Residential Uses

The development charges in respect of net capital costs for services for residential uses shall be as set out in Schedule "B", attached to and forming part of this By-Law except that no charge shall apply:

- 6.2.1 for the creation of up to two additional dwelling units in a single detached dwelling provided that the gross floor area of the additional dwelling unit or dwelling units is less than or equal to the gross floor area of the dwelling unit already in the building;
- 6.2.2 for the creation of up to one additional dwelling unit in a semi-detached or row dwelling provided that the gross floor area of the additional dwelling unit is less than or equal to the gross floor area of the dwelling unit already in the building;
- 6.2.3 for the creation of up to one additional dwelling unit in any residential building not described in 6.2.1 or 6.2.2 provided that the gross floor area of the additional dwelling unit is less than or equal to the gross floor area of the smallest dwelling unit already in the building.

6.3 Non-Residential Uses of Land, Buildings or Structures

The development charges shall be applied to the gross floor area in respect of net capital costs for services as designated in Schedule "A", for non-residential uses of land, buildings or structures as set out in Schedule "B", attached to and forming part of this By-Law. This By-Law shall not apply:

- 6.3.1 to any non-residential development creating or adding an accessory use, building or structure not exceeding 10 m² (107.6 ft.²) of non-residential gross floor area;
- 6.3.2 to the enlargement of an *existing industrial building*, as defined in Section 2.16 of this By-Law where the enlargement is less than 50 % of the existing gross floor area of the industrial building;

6.4 The development charges in respect of net capital costs for services for non-residential uses shall be as set out in Schedule "B" and shall be calculated as follows:

- a) For any non-residential use less than 279 m² (3,000 ft.²), 100% of the non-residential development charge shall be applied to the gross floor area.
- b) For a non-residential building or structure with a gross floor area greater than 279 m² (3,000 ft.²), the following formula shall apply:
 - (i) for the first 379 m² (3,000 ft.²) 100% of the non-residential development charge shall be paid;
 - (ii) plus 75% of the non-residential development charge for the next 186 m² (2,000 ft.²) or part thereof;
 - (iii) plus 50% of the non-residential development charge for the next 465 m² (5,000 ft.²) or part thereof;
 - (iv) plus 25% of the non-residential development charge for the next 930 m² (10,000 ft.²) or part thereof;
 - (v) plus 1% of the non-residential development charge for gross floor area exceeding 1860 m² (20,000 ft.²).
- c) Where a non-residential use, building or structure has more than one type of non-residential use, the total sum of all the gross floor area uses shall be used for the purposes of calculating the total development charge.

7.0 Cumulative Charges

- 7.1 The development charges shall be cumulative by adding together the calculated development charge for each of the applicable services to be used together with any interest charges.
- 7.2 For multiple use buildings, the development charge shall be the cumulative total of the applicable charges for each respective land use within the building.

8.0 When Charge is Due

- 8.1 The said development charges are due and payable in full to the Corporation of the City of Pembroke on the date a building permit is issued for any land, buildings or structures affected by the applicable development charge.

Despite Section 8.1, where, in the opinion of the Chief Building Official, a complete application for a building permit has been filed prior to the effective date of this By-Law, and the building permit is issued after the effective date of this By-Law, the applicable charge under any Development charges by-law in effect under the *Development Charges Act, 1997*, shall apply.

8.1.1 This shall not be deemed to limit the authority of the Council to enter into an agreement for payment of development charges before or after the date of the issuing of the building permit subject to Section 27 of the *Development Charges Act, 1997*. Furthermore, a building permit with respect to a building or structure shall be withheld where the applicable development charge has not been paid pursuant to Section 28 of the *Development Charges Act, 1997*.

8.1.2 *H.S.T.* shall not be collected as a surcharge to the payment of a development charge.

8.2 Collection of Unpaid Charges

If the development charge or any part thereof imposed by the municipality remains unpaid after the due date, the amount unpaid shall be added to the tax roll as taxes as prescribed by in Section 32 of the *Development Charges Act, 1997*.

8.3 Complaints

An owner may complain in writing to the Council of the municipality in respect of the development charge imposed by the municipality on the owner's development subject to the provisions of Section 20 of the *Development Charges Act, 1997*.

9.0 Exceptions and Exemptions

9.1 The entire City is hereby designated for the purposes of the *Development Charges Act* with the following exceptions and exemptions:

- (a) *Municipalities and schools:* Land owned by and used for the purposes of the municipality or a school board, public utility commission, transportation commission, public library board, local board of health, board of commissioners of police, any similar public board, commission or committee shall be 100% exempt from development charges as set out in this By-Law;
- (b) *Hospitals, universities and cemeteries:* Land owned by and used for the purposes of a hospital, health care centre, university or cemetery shall be 100% exempt from development charges as set out in this By-Law;
- (c) *Accessory uses:* Accessory uses to residential uses including a garage, storage building, garden shed, swimming pool or other similar accessory uses, buildings or structures and to an accessory use exempted under Section 6.3.1 shall be 100% exempt from development charges as set out in this By-Law;
- (d) *Existing Industrial Use:* exemptions shall apply as set out in Sections 6.3.2 and 6.3.3 of this By-Law.

10.0 Indexing

- 10.1 Council may adjust development charges in this by-law one or two times annually in accordance with the "*Construction Price Statistics*" index as published by Statistics Canada quarterly (catalogue number 62-007). Such adjustment to a development charge shall not require an amendment to this By-Law. (Section 5 (1) (10) of the *Development Charges Act, 1997* and Section 7 of *Ontario Regulation 82/98*).

11.0 Redevelopment

11.1 Residential

An owner who has secured the necessary approvals may demolish and replace an existing residential use or a non-residential use and not be subject to the development charges set out in Schedule "B" with respect to the development being replaced. However, any additional gross floor area created in excess of that demolished and replaced shall be subject to the development charges as set out in Schedule "B" subject to any provisions for exceptions and exemptions as set out in Sections 6.2 and 9.1 of this By-Law.

11.2 Non-residential

Except as exempted under Sections 6.3.2, 6.3.3 and 9.1 of this By-Law, the enlargement of any non-residential use, building or structure in excess of 10 m² (107.6 ft.²) shall be deemed as development and shall be subject to a development charge. The development charge will be calculated on the basis of any increase in the use, buildings or structures as determined from a site plan or building plans.

11.3 Conversions or a Change of Use

Except as exempted under Section 9.1 of this By-Law, any conversion or change of use of an existing building or part thereof from a residential use to a non-residential use or from a non-residential use to a residential use, shall be subject to a development charge as follows:

- (a) in the conversion or change of use from a non-residential use to a residential use, the first two (2) dwelling units created shall be exempt from a development charge;
- (b) in the conversion or change of use from a residential use to a non-residential use, the first 50 % of the gross floor area shall be exempt from a development charge;
- (c) the gross floor area use in the calculation of the development charge will be determined from a site plan or building plans submitted as a requirement under any of the applicable clauses of Section 6.1 of this By-Law.

12.0 Other By-laws and Regulations

- 12.1 Nothing in this By-Law shall exempt any person from complying with the requirements of any other By-Law, agreement or legislation in force.
- 12.2 If an owner or former owner has, before the coming into force of this development charges by-law, paid all or any portion of a charge related to

development pursuant to an agreement under section 51 or 53 of the *Planning Act* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for the amount of the charge paid.

- 12.3 If an owner or former owner has, before the coming into force of this development charges by-law, provided services in lieu of the payment of all or any portion of a charge related to development pursuant to an agreement under section 51 or 53 of the *Planning Act* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for an amount equal to the reasonable cost to the owner or to the former owner of providing the services.
- 12.4 Under this By-Law, the municipality may give a credit for work done against all or a portion of one or more services for which a development charge may be imposed and may allow the credit to be applied to a different service either at the time of entering into an agreement or afterwards, provided that the municipality has first agreed to allow a person to perform such work. However, no credit shall be given for any work that relates to an increase in the level of service that exceeds the ten (10) year average level of service as adopted by the municipality.
- 12.5 Any credit may only be used by the holder of the credit or the holder's agent and may not be transferred unless the holder and person to whom it is to be transferred have agreed in writing, and the municipality also agrees to the transfer and undertakes to transfer the paid credit or credits.
- 12.6 If a conflict exists between the provisions of this development charge by-law and an agreement referred to in subsection (12.2) or (12.3); the provisions of the agreement prevail to the extent of the conflict.
- 12.7 If a conflict exists between the provisions of this development charges by-law and any other agreement between the municipality and an owner or former owner with respect to land within the area to which the by-law applies, the provisions of the agreement prevail to the extent that there is a conflict.

13.0 Standard of Services

- 13.1 The standards for services within the Corporation of the City of Pembroke shall be those as set out from time-to-time by Council and shall be the ten (10) year average level of service for any eligible service under the *Development Charges Act, 1997*.

14.0 By-law Registration

- 14.1 A certified copy of this By-law may be registered on title to any land to which this by-law applies and may be done at the sole discretion of the municipality.

15.0 Reserve Fund

- 15.1 A reserve fund for revenues received from development charges is hereby established and shall be called the development charges reserve fund.
- 15.2 The development charges reserve fund shall be used to meet the net capital costs for which the development charge was levied under this By-Law.
- 15.3 The Treasurer of the municipality is hereby directed to maintain separate accounts under the development charges reserve fund including interest earned thereof for each municipal service category set out in Section 4.1 of this By-Law.

- 15.4 The Treasurer shall deem the reserve fund established under the former *Development Charges Act*, for an eligible service under the *Development Charges Act, 1993*, to be a reserve fund for that service under the new *Act (Development Charges Act, 1997)*.
- 15.4 Income received from investments of the development charge reserve fund shall be credited to the development charges reserve fund account for the designated municipal service category (per Section 4.1 of this By-Law) in relation to which the investment income applies.
- 15.6 The Treasurer is hereby directed to prepare an annual financial statement for the development charges fund as prescribed under Section 12 of *Ontario Regulation 82/98* and to submit the statement for Council's consideration and within 60 days thereafter, to submit such statement to the Minister of Municipal Affairs and Housing.

16.0 Refunds

- 16.1 The municipality shall pay interest on a refund under section 5 (3), (5) or 8 (14) of the *Development Charges Act* at a rate not less than the Bank of Canada rate in effect on the date this Development Charges By-law comes into force.

17.0 Schedules to the By-law

- 17.1 This following schedules to this By-Law form an integral part of this By-Law:

Schedule "A" - Uses of Land, Buildings or Structures Subject to Development Charge
 Schedule "B" - Development Charge for Designated Uses of Land, Buildings or Structures

18.0 Repeal of Former By-laws

- 18.1 Insofar as it applies to the services affected by this By-Law, any By-Laws previously passed under the *Development Charges Act* or its predecessor with respect to development charges is hereby repealed.

19.0 Effective Date and Term

- 19.1 This By-Law shall take effect on June 7, 2011 subject to the provisions of the *Development Charges Act* and shall be for a term of five (5) years.

READ A FIRST AND SECOND TIME THIS 19th DAY OF April, 2011.

Chief Administrative Officer

Mayor

READ A THIRD TIME AND PASSED THIS 19th DAY OF April, 2011.

Chief Administrative Officer

Mayor

SCHEDULE "A" TO BY-LAW No. 2011- 15

THE CORPORATION OF THE CITY OF PEMBROKE

**Uses of Land, Buildings or Structures Subject to Development Charges
Indicated by an "X"**

MUNICIPAL SERVICE		Residential Uses	Non- Residential Uses
1	Fire Services	X	X
2	Police Services	X	X
3	Transportation Services	X	X
4	Environmental Services	X	X
5	Recreation and Cultural Services	X	N/A
4	Development Charges Study	X	X

Schedule "B" TO BY-LAW No. 2011-15

Development Charge for Designated Uses of Land, Buildings or Structure Effective from June 7, 2011 to June 6, 2016

Development Charges for Residential and Non-Residential Uses											
Municipal Service		Residential Charge per dwelling unit and percentage assigned to Municipal Service					Non-Residential Charge per ft ² and percentage assigned to Municipal Service				
		June 7, 2011 to June 6, 2012	June 7, 2012 to June 6, 2013	June 7, 2013 to June 6, 2014	June 7, 2014 to June 6, 2015	June 7, 2015 to June 6, 2016	June 7, 2011 to June 6, 2012	June 7, 2012 to June 6, 2013	June 7, 2013 to June 6, 2014	June 7, 2014 to June 6, 2015	June 7, 2015 to June 6, 2016
1	Fire Services	3.158% of Charge									
2	Police Services	3.976 % of Charge									
3	Transportation Services	8.963% of Charge									
4	Environmental Services	79.257% of Charge									
5	Recreation and Cultural Services	4.109% of Charge									
6	DC Charges Study	0.534% of Charge									
	Low Density Charge	\$2,573.89	\$2,831.28	\$3,114.41	\$3,425.85	\$3,768.44					
	Medium Density Charge	\$2,019.11	\$2,221.02	\$2,443.12	\$2,687.43	\$2,956.17	\$1.05	\$1.16	\$1.28	\$1.41	
	High density Charge	\$1,410.95	\$1,552.05	\$1,707.26	\$1,877.99	\$2,065.79					