**BY-LAW NUMBER XXX-19**

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**THE CORPORATION OF THE COUNTY OF BRANT**

Being a by-law with respect to development charges

**WHEREAS** Section 2(1) of the *Development Charges Act, 1997* (hereinafter called "the Act") enables the Council of a municipality to pass by-laws for the imposition of development charges against land located in the municipality for increased capital costs required because of the need for services arising from development in the area to which the by-law applies;

**AND WHEREAS** the Council of the Corporation of the County of Brant (hereinafter called "the Council"), at its public meeting of July 23, 2019, approved a report dated May 23, 2019 entitled "County of Brant, 2019 Development Charge Background Study", which report was prepared by Watson & Associates Economists Ltd.;

**AND WHEREAS** Council has given Notice in accordance with Section 12 of the *Development Charges Act, 1997* of its development charge proposal and held a public meeting on June 25, 2019;

**AND WHEREAS** Council has heard all persons who applied to be heard in objection to, or in support of, the development charge proposal at such public meeting;

**AND WHEREAS** Council in approving the recommendations contained in Staff Report CD-19-79, dated July 8, 2019, directed that development charges be imposed on land under development or redevelopment within the geographical limits of the defined portion of the municipality as hereinafter provided;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS** as follows:

1. In this by-law,

DEFINITIONS

(1) "Act" means the *Development Charges Act, 1997,* c.27;

(2) "accessory" use means a use of land, building or structures, which is incidental and subordinate to the principal use of the lands, buildings or structures;

(3) "apartment dwelling" means any residential dwelling unit within a building containing five or more dwelling units where the residential units are connected by an interior corridor, and includes a stacked townhouse;

(4) “back-to-back townhouse” means a building where each dwelling unit is divided vertically by common walls, including a common rear wall and common side wall, and has an independent entrance to the dwelling unit from the outside accessed through the front year, side yard or exterior side yard and does not have a rear yard;

(5) "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;

(6) "board of education" means a board defined in s.s.1(1) of the *Education Act;*

(7) "Building Code Act" means the *Building Code Act,* S.O. 1992, ch.23, amended;

(8) "capital cost" has the same meaning it has in the Act;

(9) "council" means the Council of the Corporation of the County of Brant;

(10) "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;

(11) "development charge" means a charge imposed against land in the municipality under this by-law;

(12) "duplex dwelling" means a building other than a converted dwelling that is divided horizontally into two (2) separate dwelling units each of which has an independent entrance either directly from the outside or through a common entrance;

(13) "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;

(14) "existing industrial building" means a building or structure in existence for the purpose of industrial use as per the County of Brant zoning by-law and or which occupancy has been granted for such building;

(15) "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;

(16) “farm 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.

(17) "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;

(18) "grade" means the average level of finished ground adjoining a building or structure at all exterior walls;

(19) "gross floor area" means the total area of all floors above grade measured between the outside surfaces of the exterior walls or between the outside surfaces of exterior walls

and the centre line of firewalls, this also includes the floor areas of covered roofs, canopies, decks, walkways and thoroughfares;

(20) "heavy industrial" means employment uses associated with significant land use impacts such as odour, noise, dust, smoke, vibration, the potential for fire and explosive hazards, etc. Development includes manufacturing facilities, the storage, processing, refinement or production of hazardous, toxic or substances, etc.

(21) "industrial building means a building used for or in connection with,

(a) manufacturing, producing, processing, storing or distributing goods;

(b) research or development in connection with manufacturing, producing, or processing goods,

(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) marijuana production facilities;

(e) office or administrative purposes, if they are,

a. carried out with respect to manufacturing, producing, processing, storage or distribution of goods, and

b. in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;

(22) "local board" means a public library board, local board of health, or any other board, commission, committee or body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of the municipality or any part or parts thereof;

(23) "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 required as a condition of approval under s.51 of the *Planning Act,* or as a condition of approval under s.53 of the *Planning Act;*

(24) "marijuana production facilities" means a building used, designed or intended for growing, producing, testing, destroying, storing or distribution, excluding retail sales, of medical marijuana or cannabis authorized by a license issued by the Federal Minister of Health pursuant to section 25 of the Marihuana for Medical Purposes Regulations, SOR/2013-119, under the *Controlled Drugs and Substances Act, S.C. 1996*, c.19;

(25) "multiple dwellings" means all dwellings other than single-family dwellings, semi-detached dwellings, apartment dwellings and garden suite dwellings, but includes a back-to-back townhouse.

(26) "municipality" means the Corporation of the County of Brant;

(27) “mobile home” means a prefabricated building designed to be made mobile whether the running gear is removed or not and manufactured to provide cooking, eating, living, sleeping and sanitary facilities constructed to Canadian Standards Association (CSA) and which is designed to be used as a place of residence;

(28) "non-residential use" means a building or structure used for other than a residential use and includes a long-term care facility;

(29) "Official Plan" means the Official Plan of the Corporation of the County of Brant and any amendments thereto;

(30) "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;

(31) "place of worship" means that part of a building or structure that is exempt from taxation as a place of worship under paragraph 3 of Section 3 of the *Assessment Act,* R.S.O. 1990, c.A.31, as amended;

(32) "Planning Act" means the *Planning Act, 1990,* c.P.-13, as amended;

(33) "regulation" means any regulation made pursuant to the Act;

(34) "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;

(35) "retirement home" or an "assisted living facility" means a residential building which provides accommodation primarily for retired persons or couples where each private living accommodation has a separate private bathroom and separate entrance from a common hall and which may or may not provide in-unit partial or full culinary facilities but where common facilities for the preparation and consumption of food are provided, and common lounges, recreation rooms and medical care facilities may also be provided;

(36) "semi-detached dwelling" means two (2) single dwellings attached with a common wall, dividing the pair of single dwellings vertically, each of which has an independent entrance either directly from the outside or through a common vestibule;

(37) “services" (or "service") means those services set out in Schedule A to this by-law;

(38) "services in lieu" means those services specified in an agreement made under section 7 of this by-law;

(39) "servicing agreement" means an agreement between a landowner and the municipality relative to the provision of municipal services to specified lands within the municipality;

(40) "single detached dwelling" means a residential building consisting of one dwelling unit and not attached to another structure;

(41) “stacked townhouse” means one (1) building or structure containing two (2) townhouses divided horizontally, one atop the other, in a building that is divided into three (3) or more separate dwelling units;

(42) "total 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 another 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 nonresidential 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.

2. SCHEDULE OF DEVELOPMENT CHARGES

(1) Subject to the provisions of this by-law, development charges against land shall be calculated and collected in accordance with the base rates set out in Schedules B-1 and B-2, which relate to the service set out in Schedule A of this by-law.

(2) The development charge with respect to the use of any land, buildings or structures shall be calculated, based on the charges in Schedules B-1 and B-2, as follows:

(a) in the case of residential development, or the residential portion of a mixed-use development, based upon the number and type of dwelling units;

(b) in the case of non-residential development, the non-residential portion of a mixed-use development which includes residential, based upon the total floor area of such development;

(3) Council hereby determines that the development of land, buildings or structures for residential and non-residential uses have required or will require the provision, enlargement, expansion or improvement of the service referenced in Schedule A.

(4) Notwithstanding subsection (1), the development of a residential or non-residential building is exempt from that portion of the development charges calculated for water and/or sewer service, if it is located outside of the area where one or both of these services are available and a tender has not been issued for the provision of such service as of the date of building permit issuance.

(5) This by-law does not provide for the phasing in of the base rates in Schedules B-1 and B-2.

3. APPLICABLE LANDS

(1) Subject to subsections (2), (3), (6) and (8), this by-law applies to all lands in the municipality, whether or not the lands or use is exempt from taxation under section 3 of the *Assessment Act,* 1990, c.A..31.

(2) This by-law shall not apply to land that is owned by and used for the purposes of:

(a) a board of education;

(b) any municipality or local board thereof;

(c) a non-residential farm building;

(d) a farm bunk house.

(3) This by-law shall not apply to that category of exempt development described in subsection 2 (3) and section 4 of the *Development Charges Act, 1997,* namely:

(a) the enlargement of an existing dwelling unit or the creation of one or two additional dwelling units in an existing detached house where the total residential gross floor area of the dwelling units created does not exceed the residential gross floor area of the existing dwelling unit prior to the enlargement; or

(b) the creation of one additional dwelling unit in any other existing residential building, provided the residential gross floor area of the additional dwelling unit does not exceed the residential gross floor area of the smallest existing dwelling unit in the case of a semidetached house, or row house, or does not exceed the

residential gross floor area of the smallest existing dwelling unit contained in any other residential building.

(4) Notwithstanding subsection (3) (a), development charges shall be calculated and collected in accordance with Schedules B-1 and B-2 where the total residential gross floor area of the additional one or two dwelling units is greater than the total gross floor area of the existing dwelling unit.

(5) Notwithstanding subsection (3) (b), development charges shall be calculated and collected in accordance with Schedules B-1 and B-2 where the additional dwelling unit has a residential gross floor area greater than,

(a) in the case of a semi-detached house or row-house, the gross floor area of the existing smallest dwelling unit, and

(b) in the case of any other residential building, the residential gross floor area of the smallest dwelling unit contained in the residential unit.

(6) If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable in respect of the enlargement is determined in accordance with the following:

(a) Subject to subsection 6 (c), if the gross floor area is enlarged by 50 percent or less of the lesser:

(A) the gross floor area of the existing industrial building, or

(B) the gross floor area of the existing industrial building before the first enlargement for which:

i. an exemption from the payment of development charges was granted, or

ii. a lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid,

pursuant to Section 4 of the Act and this subsection,

the amount of the development charge in respect of the enlargement is zero;

(b) Subject to subsection 6 (c), if the gross floor area is enlarged by more than 50 per cent or less of the lesser of:

(A) the gross floor area of the existing industrial building, or

(B) the gross floor area of the existing industrial building before the first enlargement for which:

i. an exemption from the payment of development charges was granted, or

ii. a lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid,

pursuant to Section 4 of the Act and this subsection,

the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:

(A) determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the first enlargement, and

(B) divide the amount determined under subsection (A) by the amount of the enlargement

(c) For the purpose of calculating the extent to which the gross floor area of an existing industrial building is enlarged in subsection 6 (a) and 6 (b), the cumulative gross floor area of any previous enlargement for which:

(A) An exemption from the payment of development charges was granted, or

(B) A lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid,

pursuant to section 4 of the Act and this subsection,

shall be added to the calculation of the gross floor area of the proposed enlargement.

(d) For the purpose of this subsection, the enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, canopy, shared below grade connection, such as a service tunnel, foundation, footing or parking facility.

(7) That where a conflict exists between the provisions of this by-law and any other agreement between the County and the owner, with respect to land to be charged under this policy, the provisions of such agreement prevail to the extent of the conflict.

4. APPLICATION OF CHARGES

(1) Subject to subsection (2), development charges shall apply to, and shall be calculated and collected in accordance with the provisions of this bylaw on land to be developed for residential and non-residential use, where,

(a) the development requires,

a. the passing of a zoning by-law or an amendment thereto under section 34 of the *Planning Act, 1983,* R.S.O. 1990, c.1;

b. a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act,* R.S.O. 1990, c.P.13 applies;

c. the approval of a plan of subdivision under section 51 of the *Planning Act,* R.S.O. 1990, c.P.13;

d. a consent under section 53 of the *Planning Act,* R.S.O. 1990, c. P. 13;

e. the approval of a description under Section 50 of the *Condominium Act,* R.S.O. 1980, c.84; or

f. the issuing of a permit under the *Building Code Act,* in relation to a building or structure.

(2) Subsection (1) shall not apply in respect of:

(a) local services installed at the expense of 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,* R.S.O. 1990, c.P.13;

(b) local services installed at the expense of the owner as a condition of approval under section 53 of the *Planning Act,* R.S.O. 1990, c.P.13.

5. LOCAL SERVICE INSTALLATION

Nothing in this by-law prevents Council from requiring, as a condition of an agreement under sections 40, 51 or 53 of the *Planning Act,* that the owner, at his or her own expense, shall install such local services within the plan of subdivision, and otherwise, as Council may require, that the owner pay for, or install local services within the area to which the plan relates.

6. MULTIPLE CHARGES

(1) Where two or more of the actions described in subsection 4 (1) are required before land to which a development charge applies can be developed, only one development

charge shall be calculated and collected in accordance with the provisions of this by-law.

(2) Notwithstanding subsection (1), if two or more of the actions described in subsection 4 (1) occur at different times, and if the subsequent action has the effect of increasing the need for the municipal service as set out in Schedule A, an additional development charge on the additional residential units and/or non-residential floor area, shall be calculated and collected in accordance with the provisions of this by-law.

7. SERVICES IN LIEU

(1) Council may authorize an owner, through an 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. In no case shall the agreement provide for a credit which exceeds the total development charge payable by an owner to the municipality in respect of the development to which the agreement relates.

(2) In any agreement under section 7 (1), 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 (2) shall not be charged to any development charge reserve fund prescribed in this by-law.

8. DEVELOPMENT CHARGE CREDITS

(1) In the case of the demolition or conversion of all or part of a residential or non-residential building, a credit shall be allowed, provided that the building permit for the development or redevelopment is issued within five (5) years of the demolition permit that has been issued. The owner shall be allowed a credit 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 total 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. The demolition credit is allowed only if the land was improved by occupied structures immediately prior to the demolition.

(2) The credit can, in no case, exceed the amount of development charges that would otherwise be payable by the owner.

9. TIMING OF CALCULATION AND PAYMENT

(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 by the Act, on the date that the first building permit is issued in relation to a building or structure on land to which a development charge applies, or in a manner or at a time otherwise lawfully agreed upon.

(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 (1) and (2), an owner may enter into an agreement with the municipality to provide for the payment in full of a development charge before building permit issuance or later than the issuing of a building permit.

10. BY-LAW REGISTRATION

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

11. RESERVE FUNDS

(1) Monies received from payment of development charges shall be maintained in a separate reserve funds for each of the services in Schedule "A".

(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) Council directs the Municipal Treasurer to divide the reserve funds created hereunder into the separate sub-accounts in accordance with the service categories set out in Schedule "A" to which the development charge payments shall be credited in accordance with the amounts shown, plus interest earned thereon.

(4) Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.

(5) Where any unpaid development charges are collected as taxes under subsection (3), the monies so collected shall be credited to the development charge reserve fund referred to in subsection (1).

(6) The Treasurer of the Municipality shall, commencing in 2020 for the 2019 year, furnish to Council a statement in respect of the reserve fund established hereunder for the prior year, containing the information set out in sections 12 and 13 of O.Reg. 82/98.

12. BY-LAW AMENDMENT OR REPEAL

(1) Where this by-law or any development charge prescribed thereunder is amended or repealed by order of the Ontario Municipal Board or by resolution of the Municipal Council, the Municipal Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal.

(2) Refunds that are required to be paid under subsection (1) shall be paid to the registered owner of the land on the date on which the refund is paid.

(3) Refunds that are required to be paid under subsection (1) 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 day on which the refund is paid;

(b) the refund shall include the interest owed under this section;

(c) interest shall be paid at the Bank of Canada rate in effect on the date of enactment of this by-law.

13. DEVELOPMENT CHARGE SCHEDULE INDEXING

The development charges referred to in Schedules "B-1" and "B-2" shall be adjusted annually, without amendment to this by-law, commencing September 1, 2020, and annually thereafter in each September while this by-law is in force, in accordance with the Act.

14. BY-LAW ADMINISTRATION

This by-law shall be administered by the Municipal Treasurer.

15. SCHEDULES TO THE BY-LAW

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

Schedule A – Designated Municipal Services

Schedule B-1 – Schedule of Development Charges – Hard Services

Schedule B-2 – Schedule of Development Charges – Soft Services

16. DATE BY-LAW EFFECTIVE

This by-law shall come into force and effect on _____, 2019.

17. DATE BY-LAW EXPIRES

This by-law will expire on _____, 2024 which is five years from the passage of By-law _____.

18. EXISTING DEVELOPMENT CHARGE BY-LAW REPEAL

By-law 51-15 is repealed effective _____, 2019.

19. SEVERABILITY

If, for any reason, any provision, section, subsection or paragraph of this by-law is held to be invalid, it is hereby declared to be the intention of Council that all of the remainder of this by-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part or dealt with in any other way.

20. SHORT TITLE

This by-law may be cited as the "Brant County-wide Development Charge By-law."

**READ** a first and second time, this 23rd day of July, 2019.

**READ** a third time and finally passed in Council, this 23rd day of July, 2019.

**THE CORPORATION OF THE COUNTY OF BRANT**

_____
David Bailey, Mayor

_____
Heather Boyd, Clerk