

THE CORPORATION OF LOYALIST TOWNSHIP

BY-LAW NUMBER 2021-xxx

A by-law to establish development charges for the Corporation of Loyalist Township

WHEREAS Section 2(1) of the Development Charges Act, 1997, S.O. 1997, c. 27 (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 where the development of land would increase the need for municipal services as designated in the by-law and the development requires one or more of the actions set out in Subsection 2(2) of the Act;

AND WHEREAS the Corporation of Loyalist Township will experience growth through development and re-development;

AND WHEREAS the Council desires to ensure that the capital cost of meeting growth-related demands for or burden on municipal services does not place an excessive financial burden on the Township or its existing taxpayers while at the same time ensuring that the new taxpayers contribute no more than the net capital cost attributable to providing the current level of municipal services;

AND WHEREAS the Council has given Notice in accordance with Section 12 of the Development Charges Act, 1997 of its development charges proposal and held a public meeting on September 27, 2021;

AND WHEREAS the Council has heard all persons who applied to be heard in objection to, or in support of, the development charges proposal at such public meeting and provided a subsequent period for written communications to be made;

AND WHEREAS by passing this by-law the Corporation of Loyalist Township has determined that no additional public meeting is required;

AND WHEREAS a copy of the Study was made available on August 26, 2021, and copy of the proposed Development Charges by-law was also made available on September 13, 2021, to the public in accordance with Section 12 of the Act;

AND WHEREAS the Council of the Corporation of Loyalist Township, had before it a report entitled Development Charges Background Study dated August 26, 2021, prepared by Hemson Consulting Ltd., wherein it is indicated that the development of any land within the Corporation of Loyalist Township will increase the need for services as defined herein;

AND WHEREAS by passing this by-law Council intends to ensure that the increase in the need for services attributable to the anticipated development will be met;

AND WHEREAS Council by passing this by-law intends that the future excess capacity identified in the Development Charges Background Study, dated August 26, 2021, shall be paid for by development charges or other similar charges;

AND WHEREAS Council of the Corporation of Loyalist Township on October 25, 2021, determined that the increase in the need for services attributable to the anticipated development as contemplated in the Study, including any capital costs, will be met by updating the capital budget and forecast for the Corporation of Loyalist Township, where appropriate;

AND WHEREAS the Council of the Corporation of Loyalist Township 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 basis;

AND WHEREAS the Study dated August 26, 2021, includes an Asset Management Plan that deals with all assets whose capital costs are intended to be funded under the Development Charge By-law and that such assets are considered to be financially sustainable over their full life-cycle;

AND WHEREAS the Council of the Corporation of Loyalist Township adopted the applicable Development Charges Background Study dated August 26, 2021;

AND WHEREAS the Council, in adopting the Corporation of Loyalist Township Development Charges Background Report dated August 26, 2021, directed that development charges be imposed on land under development or redevelopment within the geographical limits of the municipality as hereinafter provided.

NOW THEREFORE THE COUNCIL OF LOYALIST TOWNSHIP ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law,

- (1) “Act” means the Development Charges Act, S.O. 1997, c. 27;
- (2) “Apartment dwelling” means any dwelling unit within a building containing more than four dwelling units where the units are connected by an interior corridor;
- (3) “Board of Education” means a board defined in s.s. 1(1) of the Education Act;
- (4) “Building Code Act” means the Building Code Act, 1992, S.O. 1992, chapter 23, as amended;
- (5) “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 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; and
- (e) to undertake studies in connection with any of the matters referred to in clauses (a) to (d);
- (f) to complete the development charge background study under Section 10 of the Act;
- (g) interest on money borrowed to pay for costs in (a) to (d);

required for provision of services designated in this by-law within or outside the municipality.

- (6) "Council" means the Council of The Corporation of Loyalist Township;
- (7) "Development" means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 7 of this by-law and including the redevelopment of land or the redevelopment, expansion, extension, or alteration of a use, building or structure except interior alterations to an existing building or structure which do not change or intensify the use of land;
- (8) "Development charge" means a charge imposed pursuant to this By-law;
- (9) "Dwelling unit" means a room or suite of rooms used, or designed or intended for use by, one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;
- (10) "Farm building" means that part of a bona fide farm operation encompassing barns, silos, and other ancillary development to an agricultural use, but excluding a residential use;
- (11) "Grade" means the average level of finished ground adjoining a building or structure at all exterior walls;
- (12) "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 the average level of finished ground adjoining the building at its exterior walls.

- (13) “Industrial Use” means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of goods, warehousing or bulk storage of goods, self-storage, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;
- (14) “Local services” means those services or facilities 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;
- (15) “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;(16)“Multiple dwelling” means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;
- (17) “Municipality” means The Corporation of Loyalist Township;
- (18) “Non-residential uses” means a building or structure used for other than a residential use;
- (19) “Non-industrial uses” means any non-residential use other than an industrial use.
- (20) “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;
- (21) “Planning Act” means the Planning Act, R.S.O. 1990, c.P.-13, as amended;
- (22) “Residential uses” means lands, buildings or structures or portions thereof used, or designed or intended for use as a home or residence of one or more individuals, and shall include a single detached dwelling, a semi-detached dwelling, a multiple dwelling, an apartment dwelling, and the residential portion of a mixed-use building or structure;
- (23) “Semi-detached dwelling” means a unit that shares one common wall with one adjacent dwelling unit. The common wall defines the property line that separates the two lots;
- (24) “Services” means services set out in Schedule “A” to this By-law, as applicable;
- (25) “Single detached dwelling” means a completely detached building containing only one dwelling unit.

CALCULATION OF DEVELOPMENT CHARGES

2. (1) Council hereby determines that the development of land for residential use

buildings, non-residential use buildings and mixed-use buildings in the Municipality will require the provision, enlargement or expansion of the services referenced in Schedule "A";

- (2) Subject to the provisions of this By-law, development charges shall be imposed, calculated, and collected in accordance with the base rates set out in Schedule "B" and Schedule "C";
- (3) The development charge for the development of a residential use building or the residential use portion of a mixed-use building or structure in the municipality shall be calculated by multiplying the number of dwelling units of each type by the corresponding residential charge for the dwelling unit type, as set out in Schedule "B".
- (4) The development charge for the development of a non-residential use building, and for the development of the non-residential use components of a mixed-use building, shall be calculated by multiplying the gross floor area of the development by the corresponding rate, as set out in Schedule "C".

PHASE-IN OF DEVELOPMENT CHARGES

3. The development charges imposed pursuant to this by-law are not being phased-in and are payable in full, subject to the exemptions herein, from the effective date of this by-law.

APPLICABLE LANDS

4. (1) Subject to Sections 5, 6 and 7, this by-law applies to all lands in the municipality, 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.
- (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 place of worship classified as exempt from taxation under Section 3 of the Assessment Act;
 - (d) a non-residential farm building;
 - (e) land used as public hospitals;
 - (f) land owned by a college or university and used only for the purposes of a college or university;
 - (g) lands deeded for highway purposes to the Ontario Ministry of Transportation;

- (h) land owned by an agricultural society and used only for the purposes of an agricultural society; and
 - (i) the development of land by the installation of a mobile temporary sales trailer.
- (3) This by-law shall not apply to land within Registered Plan No. 1081.
 - (4) The Municipality may exempt lands from this by-law where the lands are designated in the Municipality's Official Plan as part of a Community Improvement Area and the Municipality has implemented a Community Improvement Plan by by-law, which includes the said lands.

RULES WITH RESPECT TO EXEMPTIONS FOR INTENSIFICATION OF EXISTING HOUSING

- 5. (1) Pursuant to subsections 2(3) and (3.1) of the Act, no development charge shall be imposed with respect to the following:
 - (a) the enlargement of an existing residential dwelling unit;
 - (b) the creation of additional dwelling units as prescribed in the Regulation, subject to any restrictions as set out in the Regulation, in prescribed classes of existing residential buildings or prescribed structures ancillary to existing residential buildings as set out in the Regulation; or
 - (c) the creation of a second dwelling unit in prescribed classes of proposed new residential buildings as set out in the Regulation, including structures ancillary to dwellings, subject to any restrictions as set out in the Regulation.
- (2) Where the requirements of subsections 5(1)(b) or (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.

RULES WITH RESPECT TO EXEMPTION RELATING TO INDUSTRIAL ENLARGEMENT

- 6. (1) For the purpose of this Section, "existing industrial building" 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 items to be sold were manufactured, produced, or

- processed,
- (d) office or administrative purposes, if they are,
 - i. incidental to manufacturing, producing, processing, storage or distributing of something, and
 - ii. in or attached to the building or structure used for that manufacturing, producing, or processing, storage, or distribution
- (2) If development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge payable shall be as follows:
- (a) if the gross floor area is enlarged by 50 per cent or less, the development charge for the enlargement shall be zero; and
 - (b) if the gross floor area is enlarged by more than 50 per cent, the development charge shall be calculated based on the amount of the enlargement that exceeds 50 per cent of the gross floor area of the building before the enlargement
- (3) In this Section, for greater certainty in applying the exemption herein:
- (a) the gross floor area of an existing industrial building shall be determined as of the date this By-law comes into force; and
 - (b) the gross floor area of an existing industrial building is enlarged where there is a bona fide increase in the size of the existing building and the enlarged area is attached to an existing industrial building and is used for or in connection with an industrial purpose as set out in Subsection 1(1) of O. Reg. 82/98.
 - (c) Without limiting the generality of the foregoing, the exemption in this Section shall not apply where the enlarged area is attached to the existing industrial building by means only of a tunnel, bridge, canopy, corridor, or other passageway, or through a shared below grade connection such as a service tunnel, foundation, footing or a parking facility.

DEVELOPMENT CHARGES IMPOSED

7. (1) Every owner of land in the Township shall pay to the Township a development charge as calculated in this by-law whenever the Owner's lands are developed, and the development requires an approval described in (2) below.
- (2) Subject to subsection (3), 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 use, 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 50 of the Condominium Act, R.S.O. 1990, c.C.-26; or
 - (g) the issuing of a permit under the Building Code Act, in relation to a building or structure.
- (3) Subsection (1) 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*;
 - (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

8. Nothing in this by-law prevents Council from requiring, as a condition of an agreement under Section 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.

MULTIPLE CHARGES

9. (1) Where two or more of the actions described in subsection 7(2) 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 7(2) 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" or Schedule "B", as applicable, an additional development charge shall be calculated and collected in accordance with the provisions of this by-law.

SERVICES IN LIEU

10. (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 subsection (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.

RULES WITH RESPECT TO RE-DEVELOPMENT

11. Where all or part of a residential use, non-residential use or mixed-use building or structure is demolished or redeveloped, development charges otherwise applicable shall be reduced in accordance with section 12 below if:
 - (1) the building or structure was occupied within five years prior to the issuance of a building permit for redevelopment of the lands; and
 - (2) in the case where the building or structure is demolished, a demolition permit has been issued within five years prior to the issuance of a building permit for redevelopment of the lands.
12. Where a residential use, non-residential use or mixed-use building or structure qualifies for a reduction in development charges pursuant to section 11 above, the amount of the reduction shall be equivalent to:
 - (1) the number of residential dwelling units demolished or redeveloped multiplied by the applicable residential development charge under this by-law, and
 - (2) the gross floor area of the non-residential use building or portion thereof demolished or redeveloped multiplied by the applicable non-residential development charge under this by-law.
13. No credit shall exceed the amount of the development charge that would otherwise be payable, and no credit shall be available if the existing land use is exempt under this by-law.

TIMING OF CALCULATION AND PAYMENT

14. (1) The total amount of development charges shall be calculated and be payable pursuant to this by-law, in accordance with Section 26, Section 26.1, and Section 26.2 of the Act.
- (2) Where Section 26.1 and Section 26.2 of the Act do not apply, the total amount of development charges shall be calculated and be payable pursuant to this by-law as of the date the first building permit is issued.
- (3) 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 or as otherwise required in accordance with the Act.
- (4) Notwithstanding subsections 14(1) and (2) of this by-law, an owner and the Township 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.
- (5) 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 as enumerated in subsection 7(2) of this by-law.

INTEREST PAYMENTS

15. (1) The Township may charge interest on the installments required by subsection 26.1(3) of the Act from the date the development charge would have been payable in accordance with Section 26 of the Act to the date the installment is paid.
- (2) Where subsections 26.2(1) (a) or (b) of the Act applies, the Township may charge interest on the development charge from the date of the application referred to in the applicable clause to the date the development charge is payable under subsection 26.2(3) of the Act.
- (3) The Township may determine, by Council resolution or policy external to this by-law, interest rates in relation to subsections 20(1) and (2) of this by-law.

RESERVE FUNDS

16. (1) Monies received from payment of development charges under this by-law shall be maintained in the following separate reserve funds:
 - a) Emergency Services
 - b) Parks & Recreation
 - c) Development-Related Studies
 - d) Services Related to a Highway: Roads & Related

- e) Services Related to a Highway: Public Works – Buildings & Fleet
 - f) Stormwater Management
- (2) Development charge payments shall be credited to each sub reserve fund account in 16(1) in accordance with the amounts shown in Schedule “B”, plus interest earned thereon.
 - (3) Monies received for the payment of development charges shall be used only in accordance with the provisions of Section 35 of the Act.
 - (4) Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll of the property affected by the development charge and shall be collected as taxes.
 - (5) Where any unpaid development charges are collected as taxes under subsection (4), the monies so collected shall be credited to the development charge reserve funds referred to in subsection (2).
 - (6) The Treasurer of the Municipality shall, in each year commencing in 2011 for the 2010 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 12 of O.Reg. 82/98.

BY-LAW AMENDMENT OR APPEAL

17. (1) Where this by-law or any development charge prescribed thereunder is amended or repealed either by order of the Ontario Land Tribunal 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 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;
 - (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 (1) shall include the interest owed under this section.

BY-LAW INDEXING

18. The development charges set out in Schedule “B” and Schedule “C” to this by-law shall be adjusted annually on January 1st each year commencing on January 1, 2023, without amendment to this by-law, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, “Construction Price Statistics”.

SEVERABILITY

19. 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 deemed 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

20. 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 REGISTRATION

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

BY-LAW ADMINISTRATION

22. This by-law shall be administered by the Township Treasurer.

SCHEDULES TO THE BY-LAW

23. The following Schedules to this by-law form an integral part of this by-law:

Schedule "A" - Designated Municipal Services

Schedule "B" - Schedule of Residential Development Charges

Schedule "C" - Schedule of Non-Residential Development Charges

DATE BY-LAW EFFECTIVE

24. This By-law shall come into force and effect on the 1st day of January 2022.

DATE BY-LAW EXPIRY

25. This By-law expires five years after the day on which it comes into force.

REPEAL

26. Upon the coming into full force and effect of this by-law, Township By-law 2015-068 and Township By-law 2021-002 are repealed.

SHORT TITLE

27. This by-law may be cited as the "Loyalist Township Development Charge By-law, 2021-xxx."

Enacted and Passed this 25th day of October, 2021.

Mayor

Clerk

DRAFT

SCHEDULE "A"
DESIGNATED MUNICIPAL SERVICES

1. Emergency Services
2. Parks & Recreation
3. Development-Related Studies
4. Services Related to a Highway
 - a. Roads & Related
 - b. Public Works – Buildings & Fleet
5. Stormwater Management

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SCHEDULE "B"

SCHEDULE OF RESIDENTIAL DEVELOPMENT CHARGES

Service	Residential Charge by Unit Type		
	Singles/Semis	Multiple Dwelling	Apartments
Emergency Services	\$1,366	\$1,060	\$828
Parks & Recreation	\$3,349	\$2,600	\$2,031
Development-Related Studies	\$335	\$260	\$203
<i>Services Related to a Highway</i>			
<i>Roads & Related</i>	\$1,435	\$1,114	\$871
<i>Public Works: Buildings & Fleet</i>	\$1,801	\$1,398	\$1,092
Storm Management	\$671	\$521	\$407
Total	\$8,957	\$6,953	\$5,432

SCHEDULE "C"

SCHEDULE OF NON-RESIDENTIAL DEVELOPMENT CHARGES

Service	Industrial Charge (\$/sq. m)	Non-Industrial Charge (\$/sq. m)
Emergency Services	\$10.85	\$10.85
Parks & Recreation	\$0.00	\$0.00
Development-Related Studies	\$2.67	\$2.67
Services Related to a Highway		
<i>Roads & Related</i>	\$5.27	\$22.92
<i>Public Works: Buildings & Fleet</i>	\$14.31	\$14.31
Storm Management	\$5.34	\$5.34
Total	\$38.44	\$56.09