

THE CORPORATION OF THE TOWNSHIP OF TAY

BY-LAW NUMBER 2024-06

A By-law to Establish Development Charges for the Corporation of the Township of Tay pertaining to Water Services

WHEREAS the Township of Tay will experience growth through development and re-development;

AND WHEREAS subsection 2(1) of the Development Charges Act, 1997, S.O. 1997, c. 27 (hereinafter called the “Act”) provides that the council of a municipality may pass By-laws for the imposition of development charges against land to pay for increased capital costs because of increased need for services arising from the development of the area to which the By-law applies;

AND WHEREAS the Council of The Corporation of the Township of Tay (hereinafter the “Township”) held a public meeting on December 6, 2023 to consider the enactment of a development charge By-law, in accordance with section 12 of the Act;

AND WHEREAS the Council of the Township has given notice in accordance with section 12 of the Act, of its intention to pass a By-law under section 2 of the said Act;

AND WHEREAS a Development Charges Background Study (“the background study”), dated November 13, 2023, has been prepared, wherein the background study indicated that the development of any land within the Township of Tay will increase the need for services as defined herein;

AND WHEREAS copies of the background study and the proposed development charges By-law were made available to the public in accordance with section 12 of the Act;

AND WHEREAS the Council of the Township has heard all persons who applied to be heard and received written submissions whether in objection to, or in support of, the development charges proposal at a public meeting held on December 6, 2023;

AND WHEREAS on January 24, 2024, Council approved the Report titled “2023 Development Charges (DC) Background Study” dated November 13, 2023, thereby updating its capital forecast where appropriate and indicated that it intends to ensure that the increase in the need for services to service the anticipated development will be met;

AND WHEREAS Council has indicated its intent that the future excess capacity identified in the Development Charges Background Study, dated November 13, 2023, shall be paid for by development charges or other similar charges;

AND WHEREAS at its meeting held on January 24, 2024, Council approved the background study and determined that no further public meetings were required under section 12 of the Act.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF TAY ENACTS AS FOLLOWS:

1. INTERPRETATION

1.1 In this By-law the following items shall have the corresponding meanings:

“**Act**” means the Development Charges Act, 1997, S.O. 1997, c. 27, as amended or any successors thereto;

“**apartment unit**” means any residential unit within a building containing more than four dwelling units where the units are connected by an interior corridor;

“**bedroom**” means a habitable room which can be used as sleeping quarters, but does not include a bathroom, living room, dining room or kitchen;

“**board of education**” has the same meaning as set out in the *Education Act*, R.S.O. 1990, Chap. E.2, as amended, or any successor thereof;

“Building Code Act” means the *Building Code Act*, S.O. 1992, as amended, or any successor thereof;

“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;

“commercial” means any use of land, structures or buildings for the purposes of buying or selling commodities and services, but does not include industrial or agricultural uses, but does include hotels, motels, motor inns and boarding, lodging and rooming houses;

“Council” means the Council of the Township of Tay;

“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;

“development charge” means a charge imposed with respect to this By-law;

“dwelling unit” means any part of a building or structure used, designed or intended to be used as a domestic establishment in which one or more persons may sleep and are provided with culinary and sanitary facilities for their exclusive use;

“existing” means the number, use and size that existed as of the date this By-law was passed;

“farm building” means that part of a farming operation or hobby farm operation encompassing barns, stables, silos and other ancillary development to an agricultural use, but excluding a residential use and a veterinary establishment use;

“gross floor area” means:

- (a) in the case of a residential building or structure, 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 any other dwelling unit or other portion of a building; and
- (b) in the case of a non-residential building or structure, or in the case of a mixed- use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below grade measured between the outside surfaces of the exterior walls, or between the outside surfaces of exterior walls and the centre line of party walls dividing a non-residential use and a residential use, except for:
 - (i) 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;
 - (ii) loading facilities above or below grade; and
 - (iii) 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;

“industrial” means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, 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;

“Local Board” means a school board, public utility, commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of the municipality or any part or parts thereof;

“multiple dwellings” means all dwellings other than single-detached, semi-detached and apartment unit dwellings;

“municipality” means the Corporation of the Township of Tay;

“non-residential use” means a building or structure of any kind whatsoever used, designed or intended to be used for other than a residential use;

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

“Owner” means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;

“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*, R.S.O. 1990, Chap. A.31, as amended, or any successor thereof;

“regulation” means any regulation made pursuant to the Act;

“residential dwelling” means a building, occupied or capable of being occupied as a home, residence or sleeping place by one or more persons, containing one or more dwelling units but not including

motels, hotels, tents, truck campers, tourist trailers, mobile camper trailers or boarding, lodging or rooming houses;

“residential use” means the use of a building or structure or portion thereof for one or more Dwelling Units. This also includes a dwelling unit on land that is used for an Agricultural Use;

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

“semi-detached dwelling” means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall, but not other parts, attached to the other dwelling unit;

“service” means a service designed in Schedule “A” to this By-law, and “services” shall have a corresponding meaning;

“single detached dwelling unit” means a residential building consisting of one dwelling unit and not attached to another structure;

“Township” means the area within the geographic limits of the Township of Tay; and

“Zoning By-law” means the Zoning By-law of the Township of Tay or any successor thereof passed pursuant to Section 34 of the Planning Act, R.S.O. 1990 Chap. P.13, as amended, or any successor thereof;

2. DESIGNATION OF SERVICES

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

(a) Water Services.

2.2 The components of the services designated in section 2.1 are described in Schedule “A”.

3. APPLICATION OF BY-LAW RULES

3.1 Development charges shall be payable in the amounts set out in this By-law where:

- (a) the lands are located in the area described in section 3.2; and,
- (b) the development of the lands requires any of the approvals set out in subsection 3.4.1.

Area to Which By-law Applies

3.2 Subject to section 3.3, this By-law applies to all lands in the Township of Tay whether or not the land or use thereof is exempt from taxation under s.13 or the Assessment Act.

3.3. Notwithstanding clause 3.2 above, this By-law shall not apply to lands that are owned by and used for the purposes of:

- (a) any municipality or a local board thereof; or
- (b) a board of education.

Approvals for Development

3.4. Development charges shall be imposed on all lands, buildings or structures that are developed for residential or non-residential uses if the development requires:

- (a) the passing of a Zoning By-law or of an amendment to a Zoning By-law 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, Chap. C.26, as amended, or any successor thereof; or
- (g) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

3.5. No more than one development charge for each service designated in subsection 2.1 shall be imposed upon any lands, buildings or structures to which this By-law applies even though two or more of the actions described in subsection 3.4 are required before the lands, buildings or structures can be developed.

3.6. Despite subsection 3.5, if two or more of the actions described in subsection 3.4 occur at different times, additional development charges shall be imposed if the subsequent action has the effect of increasing the need for services.

Exemptions

- 3.7. This By-law shall not apply to that category of exempt development described in Section 2(3)(3.1)(3.2)(3.3) of the Act and section 2 of O.Reg. 82/98, namely:
- (a) the enlargement of an existing dwelling unit;
 - (b) one or two additional dwelling units in an existing or to be constructed single detached dwelling or prescribed ancillary structure to the existing residential building;
 - (c) the creation of additional dwelling units equal to the greater of one or 1% of the existing dwelling units in an existing residential rental building containing four or more dwelling units or prescribed ancillary structure to the existing residential building;
 - (d) the creation of one additional dwelling unit in any other existing or to be constructed residential building, such as a semi-detached or row dwelling or prescribed ancillary structure to the existing residential building;
- 3.8. Notwithstanding subsection 3.7(b), development charges shall be imposed if the total gross floor area of the additional one or two units exceeds the gross floor area of the existing dwelling unit.
- 3.9. Notwithstanding section 3.7(d), development charges shall be imposed if the additional unit has a gross floor area greater than:
- (a) in the case of a semi-detached or row dwelling, the gross floor area of the existing smallest dwelling unit; and,
 - (b) in the case of any other residential building, the gross floor area of the smallest dwelling unit contained in the residential building.
- 3.10. In accordance with Section 26.2(1.1) of the Act, the amount of a development charge determined for rental housing development shall be reduced in accordance with the following rules:
- (a) a development charge for a residential unit intended for use as a rented residential premises with three or more bedrooms shall be reduced by 25 per cent;
 - (b) a development charge for a residential unit intended for use as a rented residential premises with two bedrooms shall be reduced by 20 per cent;
 - (c) a development charge for a residential unit intended for use as a rented residential premises not referred to in subsection 5(a) and 5(b) of this by-law shall be reduced by 15 per cent.
- 3.11. This By-law does not apply to non-profit housing development as per Section 4.2 of the Act.

Other Exemptions:

- 3.12. Notwithstanding the provision of this By-law, development charges shall not be imposed with respect to:
- (a) Industrial Buildings;
 - (b) Farm buildings;
 - (c) Places of Worship; and,
 - (d) Commercial Development Charges will be exempt from properties zoned Village Commercial by Zoning By-law 2000-57, as amended, or its successor, in the downtown core areas of the communities of Port McNicoll, Victoria Harbour and Waubaushene as follows:
 - i. Properties fronting on Talbot Street from Sixth Avenue to First Street, Ney Street and/or Fourth Street north of Talbot to Assiniboia Street in the community of Port McNicoll;
 - ii. Properties fronting on Albert Street, John Street, Ellen Street, William Street from Cadeau Place to Ellen Street, and/or Richard Street from Albert Street to Ellen Street in the community of Victoria Harbour; and,
 - iii. Properties fronting on Sturgeon Bay Road east of Ouida Street, Coldwater Road from Pine Street to Willow Street, and/or Pine Street south of Dodge Drive in the community of Waubaushene.
- 3.13. The Treasurer shall rebate the water and/or wastewater service components of the calculated development charge for developments where these services are not available within five hundred feet and servicing plans are not scheduled within five years of the building permit issuance.

Amount of Residential Charges

- 3.14. The development charges set out in Schedule "B" shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use

building or structure, according to the type of residential unit, and calculated with respect to each of the services according to the type of residential use.

Amount of Non-Residential Charges

- 3.15. The development charges set out in Schedule “B” to this By-law shall be imposed on non-residential uses of lands, buildings or structures, and, in the case of a mixed use building or structure, on the non-residential uses in the mixed use building or structure, and calculated with respect to each of the services according to the total gross floor area of the non-residential use.

Phase-in of Development Charges

- 3.16. Development charges shall be phased in accordance with the requirements of the Act.

Reduction of Development Charges for Redevelopment

- 3.17. Despite any other provisions of this By-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within 5 years prior to the date of payment of development charges in regard to such redevelopment was, or is to be demolished, in whole or in part, or converted from one principal use to another principal use on the same land, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by the following amounts:
- (a) in the case of a residential building or structure, or in the case of a mixed-use building or structure, the residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charge under subsection 3.14 by the number, according to type, of dwelling units that have been or will be demolished or converted to another principal use; and,
 - (b) in the case of a non-residential building or structure or, in the case of mixed-use building or structure, the non-residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charges under subsection 3.15, by the gross floor area that has been or will be demolished or converted to another principal use.
- 3.18. Despite subsection 3.16, in no case shall a reduction of development charges exceed the amount of the development charges that would otherwise be payable, and no reduction of development charges is available if the existing land use is exempt under this By-law.

Time of Payment of Development Charges

- 3.19. 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.
- 3.20. 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 charges have been paid in full.
- 3.21. Notwithstanding subsection 3.19, the portion of development charges with respect to water services, waste water services and roads and related services shall be calculated and payable with respect to an approval of a plan of subdivision under Section 51 of the Planning Act immediately upon entering into an agreement.
- 3.22. Notwithstanding subsections 3.19, 3.20 and 3.21, an owner may enter into an agreement with the municipality to provide for the payment in full or in part of a development charge before building permit issuance or later than the issuing of a building permit, as agreed, and for the charging of interest by the Township on that part of the development charge paid after it would otherwise have been payable.
- 3.23. The amount of development charge will be determined in accordance with Section 26, 26.1 and 26.2 of the Act, prior to issuance of the building permit or revision to building permit;
- 3.24. Notwithstanding section 3.19, development charges for rental housing and institutional developments in accordance with Section 26.1 of the Act, are due inclusive of interest established from the date the development charge would have been payable in accordance with Section 26 of the Act, in 6 equal annual payments beginning on the date that is the earlier of:
- (a) the date of the issuance of a permit under the Building Code Act, 1992 authorizing occupation of the building; and
 - (b) the date the building is first occupied.
- and continuing on the following five anniversaries of that date.

3.25. Where the development of land results from the approval of a site plan or zoning by-law amendment application received on or after January 1, 2020, and the approval of the application occurred within eighteen months of building permit issuance, the development charges under shall be calculated on the rates set out in Schedule “B” on the date of the planning application, including interest. Where both planning applications apply, development charges shall be calculated on the rates in effect on the day of the later planning application, including interest.

4 PAYMENT BY SERVICES

4.1. Despite the payment required under subsections 3.14 and 3.15, Council may, by agreement, give a credit towards a development charge in exchange for work that relates to a service to which a development charge relates under this By-law.

5 INDEXING

5.1. Development charges imposed pursuant to this By-law shall be adjusted annually on the first day of January without amendment to this By-law, in accordance with the third quarter of the prescribed index in the Act.

6 SCHEDULES

6.1. The following schedules shall form part of this By-law:
Schedule “A” - COMPONENTS OF SERVICES DESIGNATED IN SUBSECTION 2.1
Schedule “B” - SCHEDULE OF DEVELOPMENT CHARGES

7 CONFLICTS

7.1. Where the Township and an owner or former owner have entered into an agreement with respect to land within the area to which this By-law applies, and a conflict exists between the provisions of this By-law and such agreement, the provisions of the agreement shall prevail to the extent that there is a conflict.

7.2. Notwithstanding subsection 7.1, where a development which is the subject of an agreement to which subsection 7.1 applies, is subsequently the subject of one or more of the actions described in subsection 3.4, an additional development charge in respect of the development permitted by the action shall be calculated, payable and collected in accordance with the provisions of this By-law if the development has the effect of increasing the need for services, unless such agreement provides otherwise.

8 SEVERABILITY

8.1. If, for any reason, any provision of this By-law is held to be invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

9 REPEAL OF CURRENT BY-LAW

9.1. That By-law 2019-07 be and is hereby repealed.

10 DATE BY-LAW IN FORCE

10.1. This By-law shall come into force and take effect immediately upon the final reading thereof.

**BY-LAW READ A FIRST, SECOND, AND THIRD TIME AND FINALLY PASSED THIS 24th
DAY OF JANUARY, 2024.**

THE CORPORATION OF THE TOWNSHIP OF TAY

TED WALKER, MAYOR

KATELYN JOHNS, MUNICIPAL CLERK

SCHEDULE “A” TO BY-LAW 2024-06

COMPONENTS OF SERVICES DESIGNATED IN SUBSECTION 2.1

- Water Services
 - Water Supply and Treatment Plants
 - Water Storage
 - Water Distribution Systems

SCHEDULE “B” TO BY-LAW 2024-06

SCHEDULE OF DEVELOPMENT CHARGES

Service	Residential Charge By Unit Type			Non-Residential
	Singles & Semis	Townhouses & Other Multiples	Apartment Units	Charge per Square Metre
Water Services	\$10,146	\$7,562	\$6,460	\$60.30

Note to draft: Rates represent full cost recovery. Implementation is subject to Council consideration.