BY-LAW No. 2019-XXX
OF THE
CORPORATION OF THE TOWN OF COLLINGWOOD

BEING A BY-LAW TO ESTABLISH DEVELOPMENT CHARGES FOR THE CORPORATION OF THE TOWN OF COLLINGWOOD

WHEREAS subsection 2(1) of the Development Charges Act, 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 for increased capital costs required because of the need for services arising from development in the area to which the by-law applies; and

AND WHEREAS the Council of The Corporation of the Town of Collingwood (“Town of Collingwood”) has given Notice in accordance with Section 12 of the Development Charges Act, 1997, of its intention to pass a by-law under Section 2 of the said Act; and

AND WHEREAS the Council of the Town of Collingwood has heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charge proposal at a public meeting held on July XX, 2019; and

AND WHEREAS the Council of the Town of Collingwood had before it a report entitled Development Charges Background Study dated June 3, 2019, as amended if applicable, prepared by Hemson Consulting Ltd., wherein it is indicated that the development of any land within the Town of Collingwood will increase the need for services as defined herein; and

AND WHEREAS the Council of the Town of Collingwood on August XX, 2019 approved the applicable Development Charges Background Study, dated June 3, 2019, as amended if applicable, in which certain recommendations were made relating to the establishment of a development charge policy for the Town of Collingwood pursuant to the Development Charges Act, 1997; and

AND WHEREAS the Council of the Town of Collingwood heard all persons who applied to be heard no matter whether in objection to, or in support of, the proposed development charges at a Public Meeting held on July XX, 2019; and

AND WHEREAS by resolution adopted by Council of the Town of Collingwood on August XX 2019, Council determined that the increase in the need for services attributable to the anticipated development as contemplated in the Development Charges Background Study dated June 3, 2019, as amended, including any capital costs, will be met by updating the capital budget and forecast for the Town of Collingwood, where appropriate; and

AND WHEREAS the Council of the Town of Collingwood on August XX, 2019 determined that no additional public meeting was required; and

AND WHEREAS by Resolution passed by Council of the Town of Collingwood on August XX, 2019, Council determined that the future excess capacity identified in the Development Charges Background Study dated June 3, 2019, shall be paid for by the development charges contemplated in the said Development Charges Background Study, or other similar charges; and

AND WHEREAS the Council of the Town of Collingwood has given consideration of the use of more than one Development Charge By-law to reflect different needs for services in different areas, also known as “area rating” or “area specific development charges”, and has determined that for the services, and associated infrastructure proposed to be funded by development charges under this by-law, that it is fair and reasonable that the charges be calculated on a municipal-wide uniform basis; and

AND WHEREAS the Development Charges Background Study dated June 3, 2019 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

AND WHEREAS the Council of the Town of Collingwood will give consideration to incorporating the Asset Management Plan outlined in the Development Charges Background Study within the Town of Collingwood’s ongoing practices and Corporate Asset Management Strategy; and

AND WHEREAS the Council of the Town of Collingwood approves the planned level of service for Transit services, as identified in the Development Charges Background Study dated June 3,
NOW THEREFORE THE COUNCIL OF THE TOWN OF COLLINGWOOD ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law,

   (1) “Accessory Apartment” means an independent and accessory secondary dwelling unit that is located within a dwelling unit;

   (2) “Act” means the Development Charges Act, S.O. 1997, c. 27;

   (3) “Administration Service” means any and all studies carried out by the municipality that are with respect to eligible services for which a development charge by-law may be imposed under the Development Charges Act, 1997;

   (4) “Agricultural use” means a bona fide farming operation;

   (5) “Air supported structure” means a structure consisting of a pliable membrane that achieves and maintains its shape and support by internal air pressure;

   (6) “Apartment dwelling” means any dwelling unit within a building containing more than four dwelling units where the units are connected by an interior corridor;

   (7) “Bedroom” means a room or area used, designed, equipped or intended for sleeping; which is not less than 7m² (75.3ft²) where built-in cabinets are not provided and not less than 6m² (64.5ft²) where built-in cabinets are provided and shall not include a hall, bathroom; kitchen, laundry room; closet, dressing room or such similar room(s);

   (8) “Board of education” means a board defined in s.s. 1(1) of the Education Act;

   (9) “Building Code Act” means the Building Code Act, R.S.O. 1992, c.23, as amended;

   (10) “Cannabis cultivation” means the use of land, buildings or structures for the growing and cultivation of cannabis;

   (11) “Cannabis production facility” means the use of land, buildings or structures for the processing, testing, destruction, packaging and shipping of cannabis and for the purposes of the by-law is defined as a non-residential use;

   (12) “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.

(13) “Council” means the Council of The Corporation of the Town of Collingwood;

(14) “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;

(15) “Development charge” means a charge imposed pursuant to this By-law;

(16) “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, including time share units;

(17) “Existing Industrial” 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, processor of something they manufactured, produced or processed a material portion of, if the retail sales are at the site where the manufacturing, production or processing takes place;
   d) storage by a manufacturer, producer, processor of something they manufactured, produced or processed a material portion of, if the storage is at the site where the manufacturing, production or processing takes place;
   e) office or administration purposes, if they are,
      (i) carried out with respect to manufacturing, producing, processing, storage or distributing something, and
      (ii) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution, provided that:
         (A) such industrial building or buildings existed on a lot in the Town of Collingwood on the day this By-law comes into effect or the first industrial building or buildings constructed and occupied on a vacant lot pursuant to site plan approval for which full Development Charges were paid; and
         (B) an Existing Industrial Building shall not include retail warehouses;

(18) “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;

(19) “Grade” means the average level of finished ground adjoining a building or structure at all exterior walls;

(20) “Gross floor area” means the aggregate of the total areas of all floors in a building, structure, or dwelling unit whether at, above, or below-grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating two uses, or from the outside edge of a floor where the outside edge of the floor does not meet an exterior or common wall, and includes the floor area of a mezzanine.

(21) “Local board” means a public utility commission, 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;

(22) “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;

(23) “Mezzanine” means an intermediate floor assembly between the floor and ceiling of any room or storey and includes an interior balcony as defined by the Ontario Building Code;
(24)  “Multiple dwelling” means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;

(25)  “Municipality” means The Corporation of the Town of Collingwood;

(26)  “Non-residential uses” means a building or structure used for other than a residential use;

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

(28)  “Planning Act” means the Planning Act, R.S.O. 1990, c.P.-13, as amended;

(29)  “Re-development” means the construction, erection or placing of one or more buildings or structures on land where all or part of a building or structure has previously been demolished on such land, or changing the use from a residential to non-residential use or from a non-residential to residential use or from one residential use to another form of residential use;

(30)  “Regulation” means any regulation made pursuant to the Act;

(31)  “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;

(32)  “Semi-detached dwelling” means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;

(33)  “Services” means services set out in Schedule “A” to this By-law;

(34)  “Single detached dwelling” means a completely detached building containing only one dwelling unit;

(35)  “Urban services” means water and wastewater services.

(36)  “Urban service area” means an area in the Town where water and wastewater services are provided.

CALCULATION OF DEVELOPMENT CHARGES

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

(2) The development charge with respect to the uses of any land, building or structure shall be calculated as follows:

a) in the case of residential development or redevelopment or the residential portion of a mixed use development or redevelopment, as the sum of the product of the number of dwelling units of each type multiplied by the corresponding total amount for such dwelling unit type, as set out in Schedule “B”;  

b) in the case of non-residential development or redevelopment, or the non-residential portion of a mixed use development or redevelopment, as the sum of the product of the gross floor area multiplied by the corresponding total amount for such gross floor area as set out in Schedule “B”;  

(3) Council hereby determines that the development or redevelopment of land, buildings or structures for residential and non-residential uses will require the provision, enlargement or expansion of the services referenced in Schedule “A”.

PHASE-IN OF DEVELOPMENT CHARGES

3.  There is no phase-in of development charges.

APPLICABLE LANDS

4.  (1) Subject to Sections 5 and 6, 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 hospital under the Public Hospitals Act;
(d) a place of worship exempt from taxation under the Assessment Act;
(e) a non-residential farm building;
(f) an air supported structure ancillary to and owned by a school exempt from taxation under the Assessment Act.

(3) The Treasurer of the Municipality shall rebate the water services component and/or the sanitary sewer component of the residential or non-residential development charge to the registered owner who applies, and provides proof satisfactory to the Municipality, that adequate private water and/or sanitary services, as the case may be, have been installed and are properly functioning so as to provide ample service to the subject lands, where:

(a) there is no municipal water and/or municipal sanitary sewer feasibly available within five hundred feet of the building site itself; and
(b) no municipal water and/or sanitary sewer main service is scheduled to service the subject lands within five years of the date of approval of the building permit issuance,

RULES WITH RESPECT TO EXEMPTIONS FOR INTENSIFICATION OF EXISTING HOUSING

5. (1) Notwithstanding Section 4 above, no development charge shall be imposed with respect to developments or portions of developments as follows:

(a) the enlargement of an existing residential dwelling unit;
(b) the creation of one or two additional residential dwelling units in an existing single detached dwelling where the total gross floor area of the additional unit(s) does not exceed the gross floor area of the existing dwelling unit;
(c) the creation of one additional dwelling unit in any other existing residential building provided the gross floor area of the additional unit does not exceed the smallest existing dwelling unit already in the building.

(2) Notwithstanding subsection 5(1)(b), development charges shall be calculated and collected in accordance with Schedule “B” 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 single detached dwelling unit.

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

(a) in the case of semi-detached house or multiple dwelling, the gross floor area of the existing dwelling unit, and
(b) in the case of any other residential building, the residential gross floor area of the smallest existing dwelling unit.

RULES WITH RESPECT TO AN “INDUSTRIAL” EXPANSION EXEMPTION

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:

(i) Subject to subsection 6 (iii), if the gross floor area is enlarged by 50 per cent or less of the lesser of:

1. the gross floor area of the existing industrial building, or
2. the gross floor area of the existing industrial building before the first 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, the amount of the development charge in respect of the enlargement is zero;

(ii) Subject to subsection 6 (iii), 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

(iii) For the purposes of calculating the extent to which the gross floor area of an existing industrial building is enlarged in subsection 6(ii), the cumulative gross floor area of any previous enlargements 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.

(iv) For the purposes 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.

DEVELOPMENT CHARGES IMPOSED

7. (1) Subject to subsection (2), 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 and non-residential uses, 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. 1998, c.19; or
(g) 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 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(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 7(1) occur at different times, and if the subsequent action has the effect of increasing the need for municipal services as set out in Schedule “A”, an additional development charge on the additional residential units and additional gross floor area 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 that 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. (1) Despite any other provision of this By-Law, where as a result of the redevelopment of land, a building or structure existing on the same land has been demolished in order to facilitate 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 clause 2(2) a) of this By-law by the number, according to type, of the dwelling units that have been or will be demolished; and

(b) in the case of a non-residential building or structure, or in the case of a mixed-use building or structure, the non-residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charge under clause 2(2) b) of this By-law by the gross floor area that has been or will be demolished.
(2) The amount of any reduction or credit permitted under subsection 11(1) of this By-law shall not exceed, in total, the amount of the development charges otherwise payable with respect to the re-development.

(3) Notwithstanding subsection 11(1) of the By-law, any reduction or credit applicable thereunder shall only apply provided that a building permit for the re-development is issued within five (5) years of the date of the issuance of a permit for the demolition of any building or structure on the same lands.”

12. A credit can, in no case, exceed the amount of the development charge that would otherwise be payable, and no credit is available if the existing land use is exempt under this by-law.

TIMING OF CALCULATION AND PAYMENT

13. (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 under 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.

(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.

RESERVE FUNDS

14. (1) Monies received from payment of development charges under this by-law shall be maintained in eleven separate reserve funds: Wastewater Services, Water Services, Roads and Related, Fire Protection Services, Police Protection Services, Transit, Parking and By-law, Outdoor Recreation Services, Indoor Recreation Services, Library Services and General Government Services.

(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 separate subaccounts in accordance with the service subcategories 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 (4), the monies so collected shall be credited to the development charge reserve funds referred to in subsection (1).

(6) The Treasurer of the Town shall, in each year commencing in 2020 for the 2019 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

15. (1) Where this by-law or any development charge prescribed there under is amended or repealed either by order of the Local Planning Appeal 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

16. The development charges set out in Schedule “B” to this by-law shall be adjusted annually commencing January 1, 2020, without amendment to the by-law, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, “Construction Price Statistics”.

SEVERABILITY

17. 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

18. The headings inserted in this by-law are for convenience of reference only and shall not affect the construction of interpretation of this by-law.

BY-LAW REGISTRATION

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

BY-LAW ADMINISTRATION

20. This by-law shall be administered by the Town Treasurer.

SCHEDULES TO THE BY-LAW

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

   Schedule “A” Schedule of Designated Municipal Services
   Schedule “B” Residential and Non-Residential Development Charges

EXISTING BY-LAW REPEAL

22. By-law 2014-066 is repealed the effective date of this by-law.

DATE BY-LAW EFFECTIVE

23. This By-law shall come into force and effect on August XX, 2019.

SHORT TITLE

24. This by-law may be cited as the “Town of Collingwood Development Charge By-law.”

ENACTED AND PASSED by the Council this XX day of August, 2019.

_________________________________  ___________________________________
                             MAYOR                                            CLERK
SCHEDULE “A”
By-law No. 2019-XXX

DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

Municipal Wide Services:
1. Roads and Related
2. Fire Protection Services
3. Police Protection Services
4. Transit
5. Parking and By-law
6. Outdoor Recreation Services
7. Indoor Recreation Services
8. Library Services
9. General Government

Urban Services:
1. Wastewater Services
2. Water Services
# SCHEDULE "B"
## By-law No. 2019-XXX

## SCHEDULE OF DEVELOPMENT CHARGES

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