

The Corporation of the Municipality of Chatham-Kent

By-Law Number 149-2022

A by-law to establish development charges for the Municipality of Chatham-Kent

Whereas the Corporation of the Municipality of Chatham-Kent will experience growth through development and re-development;

And Whereas development and re-development requires the provision of capital works by the Municipality of Chatham-Kent;

And Whereas 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 Municipality of Chatham-Kent or its existing taxpayers while at the same time ensuring new taxpayers contribute no more than the net capital cost attributable to providing the current level of municipal services;

And Whereas the *Development Charges Act, 1997* (the “Act”) provides that the Council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services;

And Whereas a development charge background study has been completed in accordance with the Act;

And Whereas the Council of The Corporation of the Municipality of Chatham-Kent has given notice of and held a public meeting on the 11th day of July, 2022 in accordance with the Act and the regulations thereto;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT 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*, as amended, or any successor thereof;

“accessory use” means where used to describe a use, building or structure, that the use, building or structure is naturally and normally incidental, subordinate in purpose of floor area or both, and exclusively devoted to a principle use, building or structure;

“affordable housing unit” means a Dwelling Unit that meets the definition for Affordable Housing. An Affordable Housing Unit does not include a Secondary Dwelling;

“affordable housing” means housing accommodations and incidental facilities primarily for persons of low and moderate income that meet the requirements of any program for such purpose as administered by any agency of the Federal or Provincial government or the Municipality of Chatham-Kent;

“affordable housing development” means development, redevelopment or adaptive reuse of a property with five (5) or more Dwelling Units all of which are intended for use as rented residential premises where at least 25% of the units are Affordable Housing Units. An Affordable Housing Development may include a retirement home within the meaning of subsection 2 (1) of the *Retirement Homes Act, 2010*, but does not include a long-term care home within the meaning of subsection 2 (1) of the *Long-Term Care Homes Act, 2007*;

“ancillary” will have the same definition as “accessory”;

“apartment unit” means any residential dwelling unit within a building containing three or more dwelling units where access to each residential unit is obtained through a common entrance or entrances from the street level and the residential units are connected by an interior corridor;

“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;

“benefiting area” means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;

“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;

“bunk house” means a building accessory to a permitted agricultural use containing kitchen and bathroom facilities and sleeping accommodation in individual or combination rooms for workers directly employed by the permitted use;

“cannabis/marijuana facilities” means a building used, designed or intended for growth, 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*;

“class” means a grouping of services combined to create a single service for the purposes of this by-law and as provided in section 7 of the Act;

“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, construct or improve facilities, including:
 - (i) furniture and equipment other than computer equipment; and
 - (ii) material acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, R.S.O. 1990, Chap. P.44, as amended, or any successor thereof; and
 - (iii) rolling stock with an estimated useful life of seven years or more; and
- (e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d) above, including the development charge background study,

required for the provision of services designated in this By-law within or outside the Municipality, including interest on borrowing for those expenditures under clauses (a) to (e) above that are growth-related;

“commercial” means any non-residential development not defined under “institutional” or “industrial”;

“Council” means the Council of the Municipality;

“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 of 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;

“existing industrial building” shall have the same meaning as the term is defined in the Regulation,

“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;

“grade” means the average level of finished ground adjoining a building or structure at all exterior walls;

“greenhouse” means a structure that is used for commercially growing plants in regulated temperatures, humidity and ventilation. A greenhouse is an immense heated building, also referred to as a hothouse or

conservatory, covering acres of ground and used for growing fruits, vegetables or flowers;

“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 with respect to 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 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. The portion of a Cannabis/Marijuana facility not used for growing of the product will also be included in this category;

“Institutional” means development of a building or structure intended for use

- (a) as a long-term care home within the meaning of subsection 2 (1) of the *Long-Term Care Homes Act, 2007*;
- (b) as a retirement home within the meaning of subsection 2 (1) of the *Retirement Homes Act, 2010*;
- (c) by any of the following post-secondary institutions for the objects of the institution:

- (i) a university in Ontario that receives direct, regular, and ongoing operating funding from the Government of Ontario,
 - (ii) a college or university federated or affiliated with a university described in subclause (i), or
 - (iii) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*;
- (d) as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion; or
- (e) as a hospice to provide end of life care;

“interest rate” means the annual rate of interest calculated at the development charge interest policy, as may be revised from time to time;

“local board” means a local board as defined in the *Development Charges Act*;

“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 with respect to the lands under sections 41, 51 or 53 of the *Planning Act*, R.S.O. 1990, Chap. P.13, as amended, or any successor thereof;

“mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer;

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

“Municipality” means the Corporation of the Municipality of Chatham-Kent;

“non-profit housing” means development of a building(s) or structure(s) intended for use as residential premises, including any non-residential accessory buildings or structures, by,

- (a) a corporation without share capital to which the *Corporations Act* applies, that is in good standing under that Act and whose primary object is to provide housing;
- (b) a corporation without share capital to which the *Canada Not-for-profit Corporations Act* applies, that is in good standing under that Act and whose primary object is to provide housing; or
- (c) a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*;

“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 and includes all commercial, industrial and institutional uses;

“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;

“rental housing” means development of a building or structure with four or more dwelling units all of which are intended for use as rented residential premises;

“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;

“Secondary dwelling unit” means a dwelling unit, whether contained within a proposed single detached dwelling or semi-detached dwelling, or ancillary to a single detached dwelling or a semi-detached dwelling including but not limited to a coach house, laneway suite or structure constructed above an existing garage or other structure separate from the primary dwelling unit, which comprises an area less than the gross floor area of the primary dwelling unit and is not capable of being legally conveyed as a separate parcel of land from the primary dwelling unit;

“semi-detached dwelling” means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but not other parts, attached or another dwelling unit where the residential units are not connected by an interior corridor;

“service” (or “services”) means a service designated in Schedule “A” to this By-law;

“servicing agreement” means an agreement between a landowner and the Municipality relative to the provision of municipal services to specified land within the Municipality;

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

“special care/special need dwellings” mean a residential building or portion thereof;

(a) containing more than two (2) dwelling units, which units have a common entrance from street level;

(b) where the occupants have the right to use in common, halls, stairs, yards, common rooms and accessory buildings but which do not have their own private sanitary and full culinary facilities;

- (c) that is designed to accommodate individuals with specific needs, including independent permanent living arrangements; and
- (d) where support services such as meal preparation, grocery shopping, laundry, housekeeping, nursing, respite care and attendant services are provided at various levels; and
- (e) includes but is not limited to, retirement homes or lodges, long-term care homes, charitable homes, group homes (including correctional group homes) and hospices;

“Trailer” means any vehicle constructed to be attached and propelled by a motor vehicle and that is capable of being used by persons for living, sleeping or eating, even if the vehicle is jacked-up or its running gear is removed. Trailers include tent trailers or similar transportable accommodation, except a mobile home or park model trailer.

2. DESIGNATION OF SERVICES AND CLASSES

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

- (a) Services Related to a Highway;
- (b) Fire Protection Services;
- (c) Policing Services;
- (d) Parks and Recreation Services;
- (e) Library Services;
- (f) Ambulance Services;
- (g) Waste Diversion Services; and
- (h) Growth Studies.

2.2 The components of the services and classes 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 (a).

Area to Which By-law Applies

3.2 Subject to section 3.3, this By-law applies to all lands in the Municipality of Chatham-Kent whether or not the land or use thereof is exempt from taxation under s.13 of 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) a board as defined in subsection 1 (1) of the *Education Act*,
- (b) the Municipality of Chatham-Kent or a local board thereof.

Approvals for Development

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

- (i) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*,
- (ii) the approval of a minor variance under section 45 of the *Planning Act*,
- (iii) a conveyance of land to which a by-law passed under subsection 50 (7) of the *Planning Act* applies;
- (iv) the approval of a plan of subdivision under section 51 of the *Planning Act*,
- (v) a consent under section 53 of the *Planning Act*,
- (vi) 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
- (vii) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

(b) 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 (a) are required before the lands, buildings or structures can be developed.

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

Exemptions

3.5 Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to the following residential criteria:

Name of Class of Residential Building	Description of Class of Residential Building	Maximum Number of Additional Dwelling Units	Restrictions
Existing single detached dwellings	Existing residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings.	Two	The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building.
Existing semi-detached dwellings or row dwellings	Existing residential buildings, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building.
Existing rental residential buildings	Existing residential rental buildings, each of which contains four or more dwelling units.	Greater of one and 1% of the existing units in the building	None.
Other existing residential buildings	An existing residential building not in another class of residential building described in this table.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building.
Proposed new detached dwellings	Proposed new residential buildings that would not be attached to other buildings and that are permitted to contain a second dwelling unit, that being either of the two dwelling units, if the units have the same gross floor area, or the smaller of the dwelling units.	The proposed new detached dwelling must only contain two dwelling units.	The proposed new detached dwelling must be located on a parcel of land on which no other detached dwelling, semi-detached dwelling or row dwelling would be located.
Proposed new semi-detached dwellings or row dwellings	Proposed new residential buildings that would have one or two vertical walls, but no other parts, attached to other buildings and that are permitted to contain a second dwelling unit, that being either of the two dwelling units, if the units have the same gross floor area, or the smaller of the dwelling units.	The proposed new semi-detached dwelling or row dwelling must only contain two dwelling units.	The proposed new semi-detached dwelling or row dwelling must be located on a parcel of land on which no other detached dwelling, semi-detached dwelling or row dwelling would be located.
Proposed new residential buildings that would be ancillary to a proposed new detached dwelling, semi-detached dwelling or row dwelling	Proposed new residential buildings that would be ancillary to a proposed new detached dwelling, semi-detached dwelling or row dwelling and that are permitted to contain a single dwelling unit.	The proposed new detached dwelling, semi-detached dwelling or row dwelling, to which the proposed new residential building would be ancillary, must only contain one dwelling unit.	The gross floor area of the dwelling unit in the proposed new residential building must be equal to or less than the gross floor area of the detached dwelling, semi-detached dwelling or row dwelling to which the proposed new residential building is ancillary.

Source: O. Reg. 82/98, s. 2.

3.6 Exemption for Industrial Development:

- (a) Notwithstanding any other provision of this by-law, no development charge is payable with respect to an enlargement of the gross floor area of an existing industrial building where the gross floor area is enlarged by 50 percent or less.
- (b) If the gross floor area of an existing industrial building is enlarged by greater than 50 percent, the amount of the development charge payable in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:
- (i) determine the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement; and
 - (ii) divide the amount determined under subsection (i) by the amount of the enlargement.

3.7 For the purpose of section 3.6 herein, “existing industrial building” is used as defined in the Regulation made pursuant to the Act.

3.8 Other Exemptions:

- (a) Notwithstanding the provision of this by-law, development charges shall not be imposed with respect to:
- (i) lands, buildings or structures used or to be used for a place of worship or for the purposes of a cemetery or burial ground exempt from taxation under the *Assessment Act*;

- (ii) the issuance of a building permit in accordance with subsection 2 (3) of the Act;
- (iii) A college or university and student accommodation related directly to the college and/or university; and
- (iv) Industrial development;
- (v) Public hospitals;
- (vi) Children's Treatment Centre of Chatham-Kent;
- (vii) Chatham-Kent Municipal Airport;
- (viii) Affordable Housing Unit;
- (ix) Non-profit housing;
- (x) Farm buildings, excluding on-farm bunk houses and greenhouses; and
- (xi) Rental Housing with fifty (50) or more Dwelling Units - 50% D.C. reduction.

Amount of Charges

Residential

3.9 The development charges set out in Schedule B shall be imposed on residential uses of land, 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.

Non-Residential

3.10 The development charges set out in Schedule B shall be imposed on commercial/institutional/greenhouse uses of land, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed-use building or structure, in accordance with section 3.13 of the By-law.

Reduction of Development Charges for Redevelopment

3.11 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 60 months 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 section 3.9 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 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 charges under section 3.10, by the gross floor area that has been or will be demolished or converted to another principal use;

provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.

Time of Payment of Development Charges

- 3.12 Development charges imposed under this By-law are calculated, payable and collected upon issuance of a building permit with respect to each dwelling unit, building or structure.
- 3.13 Notwithstanding subsections 3.9 and 3.10, development charges for rental housing and institutional developments are due and payable in 6 instalments commencing with the first instalment payable on the date of occupancy, and each subsequent instalment, including interest (as provided in the Municipality's Development Charge Interest Policy, as amended), payable on the anniversary date each year thereafter.
- 3.14 Notwithstanding subsections 3.9 and 3.10, Development Charges for non-profit housing developments are due and payable in 21 instalments commencing with the first instalment payable on the date of occupancy, and each subsequent instalment, including interest (as provided in the Municipality's Development Charge Interest Policy, as amended), payable on the anniversary date each year thereafter.
- 3.15 Where the development of land results from the approval of a Site Plan or Zoning Bylaw Amendment received on or after January 1, 2020, and the approval of the application occurred within two years of building permit issuance, the development charges under subsections 3.9 and 3.10 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 under subsections 3.9 and 3.10 shall be calculated on the rates, including interest (as provided in the Municipality's Development Charge Interest Policy, as amended), set out in Schedules "B" on the date of the later planning application, including interest.
- 3.16 Despite section 3.12, Council from time to time, and at any time, may enter into agreements providing for all or any part of a development

charge to be paid before or after it would otherwise be payable, in accordance with section 27 of the Act.

4. PAYMENT BY SERVICES

4.1 Despite the payment required under sections 3.9 and 3.10, 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 is imposed under this By-law.

5. INDEXING

5.1 Development charges imposed pursuant to this By-law shall be adjusted annually, without amendment to this By-law, commencing on the 1st of January 2023 and each year thereafter, in accordance with 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 and Classes Designated in section 2.1

Schedule B – Residential and Non-Residential Development Charges.

7. CONFLICTS

7.1 Where the Municipality 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 section 7.1, where a development which is the subject of an agreement to which section 7.1 applies, is subsequently the subject of one or more of the actions described in subsection 3.4 (a), 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. DATE BY-LAW EXPIRES

9.1 This By-law will expire at 12:01 AM on August 9, 2027 unless it is repealed by Council at an earlier date.

This By-law shall come into full force and effect upon the final passing thereof.

Read a First, Second and Third Time this 8th day of August, 2022.

Original signed by:

Mayor Darrin Canniff

Original signed by:

Clerk – Judy Smith

SCHEDULE "A" TO BY-LAW 149-2022

COMPONENTS OF SERVICES AND CLASSES DESIGNATED IN SECTION 2.1

Development Charge Eligible Services:

- (a) Services Related to a Highway;
- (b) Fire Protection Services;
- (c) Policing Services;
- (d) Parks and Recreation Services;
- (e) Library Services;
- (f) Ambulance Services;
- (g) Waste Diversion Services;

Development Charges Eligible Classes:

- (h) Growth Studies



SCHEDULE "B" TO BY-LAW 149-2022

SCHEDULE OF DEVELOPMENT CHARGES

Service/Class of Service	Residential						Non-Residential (per sq.ft. of gross floor area)	
	Single and Semi-Detached Dwelling	Multiples	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Special Care/Special Dwelling Units	Bunk houses (per bed)	Commercial / Institutional	Greenhouses
Municipal Wide Services/Class of Service:								
Services Related to a Highway	12,576	9,239	9,879	5,103	4,994	1,249	6.64	0.26
Fire Protection Services	516	379	405	209	205	51	0.27	0.01
Policing Services	29	21	23	12	12	3	0.02	0.00
Parks and Recreation Services	3,126	2,297	2,456	1,268	1,241	310	0.20	0.01
Library Services	618	454	485	251	245	61	0.04	0.00
Growth Studies	316	232	248	128	125	31	0.16	0.01
Ambulance	74	54	58	30	29	7	0.01	0.00
Waste Diversion	61	45	48	25	24	6	0.00	0.00
Total Municipal Wide Services/Class of Services	17,316	12,721	13,602	7,026	6,875	1,718	7.34	0.28