

The Corporation of the Town of Lakeshore

By-law 89-2020

Being a By-law for the Imposition of Development Charges

WHEREAS the Town of Lakeshore will experience growth through development and re-development;

AND WHEREAS development and re-development requires the provision of capital works by the Town of Lakeshore;

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 Town of Lakeshore 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 Town of Lakeshore has given notice of and held a public meeting on the 27th of October 2020 in accordance with the Act and the regulations thereto;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF LAKESHORE 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 successor thereof;

"Agricultural Use" means the cultivation of land, the production of crops and the selling of such produce on the premises, and the breeding and care of livestock and the selling of such livestock or the product of such livestock raised on the premises and, without limiting the generality of the foregoing, includes aviaries, apiaries, fish farming, animal husbandry, market gardening, nurseries and greenhouses but excludes any Residential Use;

"Apartment Dwelling" means a Residential Dwelling comprised of 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, c. E.2*, as amended, or any successor thereof;

“Bona Fide Farm Use” means an agricultural use carried out by a farm business operating with a valid Farm Business Registration Number issued by the Ontario Ministry of Agriculture, Food and Rural Affairs on lands assessed in the Farm Property Class by the Municipal Property Assessment Corporation pursuant to the Assessment Act, R.S.O. 1990, c.A.31, as amended;

“Building Code Act” means the *Building Code Act*, 1992, S.O. 1992, c.23, 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,

- (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, c. 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-Retail” means land, buildings or portions thereof used, designed or intended for use for the purpose of offering foods, wares, merchandise, substances, articles or things for sale directly or providing entertainment to the public and includes the rental of wares, merchandise, substances, articles or things and includes offices and storage in connection with, related or ancillary to such retail uses. Retail development includes, but is not limited to: fast food restaurants; concert halls/theatres/cinemas/movie houses/drive-in theatres; automotive fuel stations with or without service facilities; specialty automotive shops/auto repairs/collision services/car or truck washes; auto dealerships; regional shopping centres, including more than two stores attached and under one ownership; department/discount stores; banks and similar financial institutions; including credit unions (excluding freestanding bank kiosks); warehouse clubs, retail warehouse;

“Commercial Non-Retail” means any non-residential development which is not a commercial retail development, institutional development or industrial development. Commercial Non-retail development includes greenhouses;

“Council” means the Council of the Town of Lakeshore;

“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 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” means a building or buildings existing on a site in the Town of Lakeshore on June 15th, 2010 or the buildings or structures constructed and occupied on a vacant site pursuant to site plan approval under section 41 of the Planning Act, R.S.O. 1990, c. P.13 (the “Planning Act”) subsequent to June 15, 2010 for which full development charges were paid, and is used for or in connection with,

- (a) the production, compounding, processing, packaging, crating, bottling, packaging
- (b) or assembling of raw or semi-processed goods or materials (“manufacturing”) in not less than seventy-five per cent of the total gross floor area of the building or buildings on a site (“manufacturing”) or warehousing related to the manufacturing use carried on in the building or buildings,
- (c) research or development in connection with manufacturing in not less than seventy-five per cent of the total gross floor area of the building or buildings on a site,
- (d) retail sales by a manufacturer, if the retail sales are at the site where the manufacturing is carried out, such retail sales are restricted to goods

manufactured at the site, and the building or part of a building where such retail sales are carried out does not constitute greater than twenty-five per cent of the total gross floor area of the building or buildings on the site, or

- (e) office or administrative purposes, if they are,
 - (i) carried out with respect to the manufacturing or warehousing; and,
 - (ii) in or attached to the building or structure used for such manufacturing or warehousing;

“farm building” means barns, silos and other development ancillary to a Bona Fide Farming Use, but does not include a residential use;

“greenhouse” means a structure that 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 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 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;

“Institutional development” 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.

“Local Board” means a local board as defined in the Development Charges Act, 1997, S.O. 1997, c.27, as amended;

“local services” means those services, facilities or things which are under the jurisdiction of the Town and are related to a plan under Sections 41, 51 or 53 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, or any successor thereof, or are within the area to which the plan relates in respect of the lands;

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

“municipality” means the Corporation of the Town of Lakeshore;

“Non-profit housing development” means development of a building or structure intended for use as residential premises 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;

“Official Plan” means the Official Plan adopted for the Town, 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;

“Rate” means the interest rate established weekly by the Bank of Canada based on Treasury Bills having a term of 91 days;

“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 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 building divided vertically into two dwelling units each of which has a separate entrance and access to grade;

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

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

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

“Solar Farm” means any solar energy system comprised of one or more solar panels and associated control or conversion electronics that converts sunlight into electricity. A solar farm may be connected to the electricity grid in circuits at a substation to provide electricity off-site for sale to an electrical utility or other intermediary;

“Telecommunications Tower” – means any tower, apparatus, structure or other thing that is used or is capable of being used for telecommunications or for any operation directly connected with telecommunications, and includes a transmission facility, as defined in the Telecommunications Act;

“Town” means the area within the geographic limits of the Town of Lakeshore;

“Wind Turbine” means any wind energy system, comprising one or more turbines, that converts energy into electricity, with a combined nameplate generating capacity greater than 500 kilowatts and a height greater than 100 metres, that converts energy into electricity, and consists of a wind turbine, a tower, and associated control or conversion electronics. A wind turbine and energy system may be connected to the electricity grid in circuits at a substation to provide electricity off-site for sale to an electrical utility or other intermediary; and

“Zoning By-Law” means the Zoning By-Law of the Town of Lakeshore, or any successor thereof passed pursuant to Section 34 of the *Planning Act*, S.O. 1998.

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) Water Services;
- (b) Wastewater Services;
- (c) Services Related to a Highway;
- (d) Public Works;

- (e) Fire protection Services;
- (f) Policing Services;
- (g) Library Services;
- (h) Parks and Recreation Services; and
- (i) 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 within the jurisdiction of the Town of Lakeshore whether or not the land or use thereof is exempt from Development Charges under section 3 of this by-law or from taxation under the Assessment Act, R.S.O. 1990, c.A.31, as amended.

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) the Town or a local board thereof;
- (b) a board of education; or
- (c) the Corporation of the County of Essex 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; a conveyance of land to which a by-law passed under subsection 50(7) of the Planning Act applies;
- (iii) the approval of a plan of subdivision under section 51 of the Planning Act;
- (iv) a consent under section 53 of the Planning Act;

(v) 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

(vi) 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:

(a) an enlargement to an existing dwelling unit;

(b) one or two additional dwelling units in an existing single detached dwelling; or

(c) one additional dwelling unit in any other existing residential building;

3.6 Notwithstanding section 3.5(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.

3.7 Notwithstanding section 3.5, 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 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.

3.8 Exemption for Industrial Development:

3.8.1 Notwithstanding any other provision of this by-law, there shall be an exemption from the payment of development charges for one or more enlargements of an existing industrial building on its site, whether attached or separate from the existing industrial building, up to a maximum of fifty per cent of the gross floor area before the first enlargement for which an exemption from the payment of development charges was granted pursuant to the Development Charges Act or this section. Development charges shall be imposed in accordance with this by-law with respect to the amount of the floor area of an enlargement that

results in the gross floor area of the industrial building being increased by greater than fifty per cent of the gross floor area of the existing industrial building.

3.8.2 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:

- 1) determine the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement;
- 2) divide the amount determined under subsection 1) by the amount of the enlargement

3.9 For the purpose of section 3.8 herein, “existing industrial building” is used as defined in the Regulation made pursuant to the Act.

3.10 Other Exemptions:

Notwithstanding the provision of this by-law, development charges shall not be imposed with respect to:

- a) 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*;
- b) the development of non-residential farm buildings constructed for bona fide farm uses, which qualify as a farm business, being that which operates with a valid Farm Business Registration Number and is assessed in the Farmland Realty Tax Class.

Amount of Charges

Residential

3.11 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.

Non-Residential

3.12 The development charges described 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 floor area of the non-residential use.

Reduction of Development Charges for Redevelopment

3.13 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 3.11 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 3.12, 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

3.14 Development charges imposed under this By-law are calculated, payable, and collected upon issuance of the first building permit for the development.

3.15 Notwithstanding Subsections 3.11 and 3.12, Development Charges for rental housing and institutional developments are due and payable in 6 installments commencing with the first installment payable on the date of occupancy, and each subsequent installment, including interest (as provided in the Town's Development Charge Interest Policy, as amended), payable on the anniversary date each year thereafter.

3.16 Notwithstanding Subsections 3.11 and 3.12, Development Charges for non-profit housing developments are due and payable in 21 installments commencing with the first installment payable on the date of occupancy, and each subsequent installment, including interest (as provided in the Town's Development Charge Interest Policy, as amended), payable on the anniversary date each year thereafter.

3.17 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 2 years of building permit issuance, the Development Charges under Subsections 3.11 and 3.12 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 3.11 and 3.12 shall be calculated on the rates, including interest (as provided in the Town's Development Charge Interest Policy, as amended), set out in Schedules "B" on the date of the later planning application, including interest.

3.18 Despite sections 3.14 to 3.17 and in accordance with section 27 of the Act, 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.

4. PAYMENT BY SERVICES

4.1 Despite the payment required under subsections 3.11 and 3.12, 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, without amendment to this By-law, commencing on the 1st of January 2021 and each year thereafter, in accordance with the prescribed index in the Act.

6. UNDEVELOPED AND PREPAID LOTS

6.1 The Services Related to a Highway component of a Development Charge imposed by this By-law shall be imposed upon all lands described on Schedule “D” to this by-law. All other services imposed by this By-law, as identified in Schedule “B”, are exempt from payment for those lands described in Schedule “D”.

7. SCHEDULES

7.1 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
Schedules C-1 through C-11 -	Maps Identifying Areas where Water and Wastewater Services are Imposed
Schedule D-	Undeveloped and Prepaid Development Charges as of December 31, 2019

8. CONFLICTS

8.1 Where the Town 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.

8.2 Notwithstanding section 8.1, where a development which is the subject of an agreement to which section 8.1 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.

9. SEVERABILITY

9.1 If, for any reason, any provision of this By-law is held to be invalid by a court of competent jurisdiction, it is hereby declared to be the intention of Council that such provision be severable and the remainder of this By-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

10. DATE BY-LAW IN FORCE

10.1 This By-law shall come into effect at 12:01 AM on January 1, 2021.

11. DATE BY-LAW EXPIRES

11.1 This By-law will expire at 12:01 AM on January 1, 2025 unless it is repealed by Council at an earlier date.

12. EXISTING BY-LAW REPEALED

12.1 By-law Number 46-2015 is hereby repealed as of the date and time of this By-law coming into effect.

Read and passed in open session on December 8, 2020.

**Mayor
Tom Bain**

**Clerk
Kristen Newman**