



The Corporation of the City of Cornwall
Regular Meeting of Council
By-law 2020-112

Department: Infrastructure and Municipal Works
Division: Infrastructure Planning
By-law Number: 2020-112
Report Number: 2020-333-Infrastructure and Municipal Works
Meeting Date: September 14, 2020
Subject: Brookdale Avenue North – Area-Specific Development
 Charges By-Law – Update

Whereas the City of Cornwall will experience growth through development and re-development; and

Whereas development and re-development requires the provision of physical and social services by the City of Cornwall; 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 City of Cornwall 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 City 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 charges background study has been completed in accordance with the Act; and

Whereas the Council of The Corporation of the City of Cornwall has given notice of and held a public meeting on the 27th day of July, 2020, in accordance with the Act and the regulations thereto;

Now therefore be it resolved that the Council of The Corporation of the City of Cornwall 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 principal use, building or structure;

“benefiting area” means an area defined by 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;

“bona fide farm uses” means the proposed development will qualify as a farm business operating with a valid Farm Business Registration Number issued by the Ontario Ministry of Agriculture, Food and Rural Affairs and be assessed in the Farmland Realty Tax Class by the Ontario Property Assessment Corporation;

“Brookdale Avenue North Corridor” means the area defined as “New Catchment Area Lands” in the map provided as Schedule “C” to this by-law;

“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 City or a local board thereof directly or by others on behalf of and as authorized by the City or local board,

- (1) to acquire land or an interest in land, including a leasehold interest,
- (2) to improve land,
- (3) to acquire, lease, construct or improve buildings and structures,

- (4) to acquire, construct or improve facilities including,
 - (a) furniture and equipment other than computer equipment, and
 - (b) 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
 - (c) rolling stock with an estimated useful life of seven years or more, and
- (5) to undertake studies in connection with any matter under the Act and any of the matters in clauses (1) to (4) above, including the development charges background study

required for the provision of services designated in this by-law within or outside the City, including interest on borrowing for those expenditures under clauses (1) to (5) above that are growth-related;

“City” means the Corporation of the City of Cornwall;

“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 City;

“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;

“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;

“gross floor area” means:

- (1) 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:
 - (a) a room or enclosed area within the building or structure above or below that which is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
 - (b) loading facilities above or below grade; and
 - (c) 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, distribution centres, 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” means land, buildings, structures or any part thereof used by any organization, group or association for promotion of charitable, educational or benevolent objectives and not for profit or gain. For the purposes of subsection 3.12 herein, “institutional” means development of a building or structure intended for use;

- (1) as a long-term care home within the meaning of subsection 2 (1) of the *Long-Term Care Homes Act, 2007*;
- (2) as a retirement home within the meaning of subsection 2 (1) of the *Retirement Homes Act, 2010*;

(3) by any of the following post-secondary institutions for the objects of the institution:

(a) a university in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario,

(b) a college or university federated or affiliated with a university described in subclause (a), or

(c) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*;

(4) as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion; or

(5) as a hospice to provide end of life care;

“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 City of Cornwall or any part or parts thereof;

“local services” means those services, facilities or things which are under the jurisdiction of the City and are related to a plan of subdivision or within the area to which the plan relates in respect of 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;

“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. Despite the foregoing, a non-residential use includes an institutional use as defined herein;

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

“residential use” means the use of a building or structure or portion thereof for one or more dwelling units, including a dwelling unit on land that is used for an agricultural use. Despite the foregoing, a residential use does not include an institutional use as defined herein;

“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 City relative to the provision of municipal services to specified land within the City;

2. DESIGNATION OF SERVICES

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

(1) wastewater services.

3. APPLICATION OF BY-LAW RULES

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

(1) 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 subsection 3.3, this by-law applies to all lands identified as “New Catchment Area Lands” in the map of the Brookdale Avenue North Corridor (Schedule “C”) whether or not the land or use thereof is exempt from taxation under section 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:

- (1) the City or a local board thereof;
- (2) a board of education; or
- (3) the Corporation of the County of Stormont, Dundas and Glengarry or a local board thereof.

Approvals for Development

3.4 Approvals for Development

- (1) Development charges shall be imposed on all lands, buildings or structures that are developed for 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.
- (2) 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 (1) are required before the lands, buildings or structures can be developed.
- (3) Despite subsection 3.4 (2), if two or more of the actions described in subsection 3.4 (1) 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 Exemption for Industrial Development:

- (1) 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.
- (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:
 - (a) determine the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement;
 - (b) divide the amount determined under paragraph (a) by the amount of the enlargement.
- (3) The exemption of an existing industrial building provided by this section shall be applied to a maximum of fifty percent (50%) of the gross floor area before the first enlargement for which an exemption from the payment of development charges was granted pursuant to this by-law.

3.6 For the purpose of subsection 3.8 herein, “existing industrial building” is used as defined in the regulation made pursuant to the Act.

3.7 Other exemptions:

- (1) Notwithstanding the provision of this by-law, development charges shall not be imposed with respect to:
 - (a) Bona fide farm uses;
 - (b) Places of worship;
 - (c) Hospitals;
 - (d) College or university buildings;

- (e) Manufacturing uses; and
- (f) Properties within the Brookdale Avenue North Corridor having paid a charge imposed under the *Municipal Act* for the extension of wastewater services to the Brookdale Avenue North Corridor.

Amount of Charges – Non-Residential

- 3.8 The development charges described in Schedule “B” to this by-law shall be imposed on non-residential uses of lands, buildings or structures 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

- 3.9 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:
- (1) in the case of a non-residential building or structure, an amount calculated by multiplying the applicable development charges under subsection 3.8, 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.

Timing and Calculation of Payment of Development Charges

- 3.10 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.
- 3.11 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.

- 3.12 Notwithstanding subsections 3.10 and 3.11, development charges for institutional developments are due and payable in six installments commencing with the first installment payable on the date of occupancy, and each subsequent installment, including interest, payable on the anniversary date each year thereafter.
- 3.13 Where the development of land results from the approval of a site plan or zoning by-law 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 3.10, 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 3.10, 3.11 and 3.12 shall be calculated on the rates, including interest, set out in Schedule “B” on the date of the later planning application.
- 3.14 Interest for the purposes of subsections 3.12 and 3.13 shall be payable on the development charge at the prime lending rate plus 3%.
- 3.15 Despite subsections 3.10 to 3.14, 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 subsection 3.8, 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, on the first day of January each year, 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 – Services Designated in Section 2.1

Schedule B – Non-Residential Development Charges

Schedule C – Map of Brookdale Avenue North Corridor

7. CONFLICTS

- 7.1 Where the City 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 (1), 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 IN FORCE

- 9.1 This by-law shall come into effect at 12:01 AM on September 15, 2020.

10. DATE BY-LAW EXPIRES

- 10.1 This by-law will expire at 12:01 AM on September 15, 2025, unless it is repealed by Council at an earlier date.

11. EXISTING BY-LAW REPEAL

- 11.1 By-law 2018-037 is repealed as of the effective date of this By-law.



Read, signed and sealed in open Council this 14th day of September, 2020.

Manon L. Levesque
City Clerk

Bernadette Clement
Mayor

Report Approval Details

Document Title:	By-law 2020-xxx Brookdale Ave N - Area-Specific DCs - 2020-333-IMW.docx
Attachments:	<ul style="list-style-type: none">- Schedule A.pdf- Schedule B.pdf- Schedule C.pdf
Final Approval Date:	Sep 9, 2020

This report and all of its attachments were approved and signed as outlined below:

Michael Fawthrop - Sep 8, 2020 - 5:19 PM

Bill de Wit - Sep 8, 2020 - 5:26 PM

Mark A. Boileau - Sep 9, 2020 - 3:06 PM

Tracey Bailey - Sep 9, 2020 - 7:20 PM

Maureen Adams - Sep 9, 2020 - 7:52 PM