



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2013-020

A by-law to establish development charges generally for The Corporation of the Town of Oakville, and to repeal By-laws 2009-118 and 2009-119.

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

WHEREAS the Council of The Corporation of the Town of Oakville ("Town of Oakville") has given notice in accordance with section 12 of the Act, of its intention to pass a by-law under section 2 of the said Act;

WHEREAS the Council of The Corporation of the Town of Oakville has heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charges proposal at a public meeting held March 4, 2013;

WHEREAS in accordance with the legislation, the Development Charge Background Study dated February 15, 2013 and proposed By-law were available for public review on February 15, 2013;

WHEREAS at a meeting open to the public held on March 4, 2013, the Council of The Corporation of the Town of Oakville considered the final development charges proposals, received written submissions and heard further comments and representations from the public;

WHEREAS by resolution adopted by Council of The Corporation of the Town of Oakville on March 4, 2013, Council determined that no further public meetings were required under Section 12 of the Act;

WHEREAS the Council of The Corporation of the Town of Oakville had before it a report, entitled Development Charge Background Study, dated February 15, 2013, and Addendum No. 1 to the Development Charge Background Study dated March 4, 2013, both prepared by Watson & Associates Economists Ltd.;

WHEREAS by resolution adopted by Council of The Corporation of the Town of Oakville on March 4, 2013, Council has indicated that it intends to ensure that the increase in the need for services attributable to the anticipated development, including any capital costs, will be met, by updating its capital budget and forecast where appropriate;

WHEREAS by resolution adopted by Council of The Corporation of the Town of Oakville on March 4, 2013, Council has indicated its intent that the future excess capacity identified in the Development Charge Background Study, dated February 15, 2013, prepared by Watson & Associates Economists Ltd., as amended, shall be paid for by the development charges or other similar charges;

COUNCIL ENACTS AS FOLLOWS:

DEFINITIONS

1. In this By-law,
 - (1) *accessory dwelling* means a detached building that contains one dwelling unit that is subordinate in purpose to another residential dwelling unit upon the same lot;
 - (2) *Act* means the *Development Charges Act*, 1997, S.O. 1997, c. 27, as amended or successor legislation;
 - (3) *air-supported structure* means an air-supported structure as defined in O.Reg. 403/97 under the *Building Code Act*;
 - (4) *apartment dwelling* means any dwelling unit within a building containing more than three dwelling units where the units are connected by an interior corridor. Despite the foregoing, an *apartment dwelling* also includes *stacked townhouse dwellings* or *back-to-back townhouse dwellings* that are developed on a block approved for development at a minimum density of sixty (60) *units per site hectare* pursuant to plans and drawings approved under Section 41 of the *Planning Act*;
 - (5) *area of worship* means the area within a *place of worship* in which a religious service, ceremony or other practice is normally held;
 - (6) *Assessment Act* means the *Assessment Act*, R.S.O. 1990, c. A. 31, as amended, or successor legislation;
 - (7) *back-to-back townhouse dwelling* means a *building or structure* containing four or more dwelling units, separated vertically by a common rear wall, that do not have rear yards;
 - (8) *bedroom* means a habitable room of at least seven (7) square metres, including a den, study, loft or other similar area, but does not include a living room, dining room or kitchen;
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- (9) *board of education* means a board defined in subsection 1(1) of the *Education Act*, R.S.O. 1990, c. E.2, as amended, or successor legislation;
- (10) *Building Code Act* means the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended, or successor legislation;
- (11) *building or structure* means a permanent enclosed structure occupying an area greater than ten square metres (10 m²) and despite the foregoing includes, but is not limited to:
- (a) above grade storage tanks;
 - (b) a permanent air-supported sport structure;
 - (c) industrial tents;
 - (d) a roof-like structure over a gas-bar or service station; and
 - (e) an area attached to and ancillary to a retail development delineated by one or more walls or part walls, a roof-like structure or any of them;
- (12) *building permit* means a permit under the *Building Code Act*, in relation to a *building or structure*, other than a permit exclusively for (a) plumbing, (b) shoring, or (c) an above or below grade parking structure;
- (13) *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
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- (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, as amended, or successor legislation;
- (e) to undertake studies in connection with any of the matters referred to in subsections 1(11)(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 subsections 1(11)(a) to (d);

required for provision of services designated in this By-law within or outside the municipality.

- (14) *charitable home* means a residential *building or structure* or the residential portion of a mixed-use *building or structure* licensed as a charitable home by the Province of Ontario;
- (15) *council* means the council of the *municipality*;
- (16) *development* means the construction, erection or placing of one or more *buildings or structures* on land or the making of an addition or alteration to a *building or structure* that has the effect of increasing the size or usability thereof, and includes *redevelopment*;
- (17) *development charge* means a charge imposed pursuant to this By-law;
- (18) *dwelling unit* means,
 - (a) 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;
 - (b) except in the case of a *special care/special need dwelling*, as defined in this By-law, in which case *dwelling unit* means either:
 - (i) a room or suite of rooms designated for residential occupancy with or without exclusive sanitary and/or culinary facilities;
 - (ii) a room or suite of rooms used, or designed or intended for use, by more than one person with no more than two

persons sharing a *bedroom* and with sanitary facilities directly connected and accessible to each room; or

- (iii) every seven (7) square metres of area within a room or suite of rooms used, or designed or intended for use, by more than one person as a *bedroom*.
- (19) *grade* means the average level of finished ground adjoining a building or structure at all exterior walls;
 - (20) *group home* means a residential *building or structure* or the residential portion of a mixed-use *building or structure* containing a single housekeeping unit which may or may not be supervised on a 24-hour basis on site by agency staff on a shift rotation basis, and funded wholly or in part by any government or agency, or by public subscription or donation, or by any combination thereof, and licensed, approved or supervised by the Province of Ontario for the accommodation of persons under any general or special act and amendments or replacements thereto, and includes a correctional *group home*, which may contain an office provided that the office is only used for the operation of the correctional *group home*, but does not include any detention facility operated or supervised by the federal government, or any secure custody and detention facility operated by the provincial government;
 - (21) *local board* means municipal service board, municipal business corporation, 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, including school purposes, of the municipality or any part or parts thereof, excluding a conservation authority, any municipal business corporation not deemed to be a local board under O.Reg. 168/03 under the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, and any corporation enacted under the *Electricity Act, 1998*, S.O. 1998, c. 15, Sched. A, as amended, or successor legislation;
 - (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 section 51 of the *Planning Act*, or as a condition of approval under section 53 of the *Planning Act*;
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- (23) *multiple dwelling* means all dwellings other than single detached dwellings, semi-detached dwellings, apartment dwellings, special care/special need dwellings, and accessory dwellings;
 - (24) *municipality* means The Corporation of the Town of Oakville;
 - (25) *non-residential farm building* means a *building or structure* used as part of a *bona fide* farming operation (as evidenced by membership of the owner/operator of the farm operation in the Ontario Federation of Agriculture), including greenhouses which are not connected to Regional water or wastewater services, sod farms and farms for the breeding and boarding of horses, and includes barns, silos and other ancillary buildings to such agricultural development, but does not include any *building or structure*, or part thereof, that is a *residential use*;
 - (26) *non-residential use* means the use of lands, *buildings or structures* for other than a residential use;
 - (27) *non-retail use* means any *non-residential use* which is not a *retail development*;
 - (28) *nursing home* means a residential *building or structure* or the residential portion of a mixed-use *building or structure* licensed as a nursing home by the Province of Ontario;
 - (29) *official plan* means the Official Plan of the Town of Oakville and any amendments thereto;
 - (30) *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;
 - (31) *place of worship* means a *building or structure*, or part thereof, that is exempt from taxation as a place of worship pursuant to paragraph 3 of the *Assessment Act*;
 - (32) *Planning Act* means the *Planning Act*, R.S.O. 1990,. P. 13, as amended, or successor legislation;
 - (33) *redevelopment* 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 of a *building or structure* from a *residential use* to a *non-residential use* or from a *non-residential use* to a *residential use*, or changing a *building or structure* from one form of *residential use* to
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another form of *residential use* or from one form of *non-residential use* to another form of *non-residential use*;

- (34) *regulation* means any regulation made pursuant to the Act;
 - (35) *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 but not be limited to a single detached dwelling, a semi-detached dwelling, a multiple dwelling, an apartment dwelling, a special care/special need dwelling, an accessory dwelling, and the residential portion of a mixed-use building or structure;
 - (36) *retail development* means lands, *buildings or structures*, or portions thereof, used, designed or intended for use for the purpose of offering foods, wares, merchandise, substances, articles, or things or services for sale directly, or providing entertainment to the public, and includes the rental of wares, merchandise, substances, articles or things and includes office uses within the same building, which are related or ancillary to such retail uses. *Retail development* includes, but is not limited to: conventional restaurants and fast food restaurants; concert halls, theatres, cinemas, movie houses and drive-in theatres; automotive fuel stations with or without service facilities; special automotive shops, auto repairs, collision services and car or truck washes; auto dealerships; regional shopping centres; community shopping centres; neighbourhood shopping centres, including more than two stores attached and under one ownership; department and discount stores; banks and similar financial institutions, including credit unions (excluding freestanding bank kiosks); and retail warehouses (including where a membership is required);
 - (37) *retirement home or lodge* means a residential *building or structure* or the residential portion of a mixed-use *building or structure* which provides accommodation primarily for retired persons or couples where each private *bedroom* or living accommodation has a separate private bathroom and separate entrance from a common hall but where common facilities for the preparation and consumption of food are provided, and common lounges, recreation rooms and medical care facilities may also be provided;
 - (38) *seasonal air-supported sport structure* means an *air-supported structure* that is raised and/or erected for a maximum of six months in any given year to allow for the use of an outdoor sports field or portion thereof during the winter season for sports-related activities;
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- (39) *semi-detached dwelling* means a building divided vertically into 2 dwelling units each of which has a separate entrance and access to grade;
- (40) *services* means services designated in this By-law;
- (41) *single detached dwelling* means a completely detached building containing only one dwelling unit;
- (42) *site hectare* means a site area in hectares, including residential lots or blocks only and excludes any public lands. In the case of a development, any public land required to be dedicated or conveyed shall not be included for the purpose of calculating the site hectareage;
- (43) *special care/special need dwellings* means a building containing more than two (2) dwelling units, which units have a common entrance from street level, where the occupants have the right to use in common, halls, stairs, yards, common rooms and accessory buildings; that is designed to accommodate individuals with specific needs, including independent permanent living arrangements, where support services such as meal preparation, grocery shopping, laundry, housekeeping, nursing, respite care and attendant services are provided at various levels, and includes *retirement homes or lodges, nursing homes, charitable homes, granny flats, group homes* (including *correctional group homes*) and hospices;
- (44) *stacked townhouse dwelling* means a *building* containing two or more *dwelling units* where each *dwelling unit* is separated horizontally and/or vertically from another *dwelling unit* by a common wall;
- (45) *temporary building or structure* means a *building or structure* used, designed or intended for a *non-residential use* that is constructed or placed upon lands and which is demolished or removed from the lands within three years of building permit issuance, including but not limited to sales trailers, office trailers and industrial tents, provided that such a *building or structure* meets the aforementioned criteria;
- (46) *total floor area* means the total area of all floors of *buildings and structures*, 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 those areas used exclusively for parking garages or structures, and includes the area of a mezzanine, as defined in O. Reg. 403/97 made under the *Building Code Act*, and
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- (47) *Treasurer* means the Treasurer of the *municipality* or his or her designate.

RULES

2. For the purpose of complying with section 6 of the Act:
- (1) the area to which this By-law applies shall be the area described in section 5 of this By-law;
 - (2) the rules developed under paragraph 9 of subsection 5(1) of the Act for determining if development charges are payable under this By-law in any particular case and for determining the amount of the charges shall be as set forth in sections 3, 4 and 12 of this By-law;
 - (3) the rules for exemptions, relief, credits and adjustments shall be as set forth in sections 6, 7, 9, 10, 11 and 13 of this By-law;
 - (4) the indexing of charges shall be in accordance with section 17 of this By-law; and
 - (5) except as set out in the Act and this By-law, there are no other credits, exemptions, relief or adjustments in respect of any land in the area to which this By-law applies.

APPROVAL FOR DEVELOPMENT

3. (1) Subject to the provisions of this By-law, *development charges* against land shall be imposed, calculated and collected in accordance with the rates set out in Schedule "B" (Town Services), which relate to the *services* set out in Schedule "A".
- (2) Development in the *municipality* may be subject to one or more by-laws of the *municipality* and the development charges under this By-law are in addition to any other development charges imposed by the *municipality* under other by-laws.

Phasing-in of Development Charges

- (3) This By-law does not provide for the phasing in of the schedule of the base rates in Schedule "B".
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Calculation of Development Charges

- (4) The *development* or *redevelopment* of land in the *municipality* may be subject to one or more development charges by-laws of the *municipality*.
- (5) The *development charge* with respect to the use of any land, buildings or structures 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*, based upon the number and type of *dwelling units*;
 - (b) in the case of *non-residential development* or *redevelopment*, or the non-residential portion of a mixed-use *development* or *redevelopment*, based upon the *total floor area* of such *development*.

Development and Redevelopment

- (6) *Council* hereby determines that the *development* or *redevelopment* of lands, *buildings* or *structures* for *residential* and *non-residential* uses will require the provision, enlargement or expansion of *services* referred to in Schedule "A", including, and without limiting the foregoing, any *capital costs* associated with the *development* or *redevelopment*.

APPROVAL FOR DEVELOPMENT

4. (1) Subject to subsection 4(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 or redeveloped for *residential* and *non-residential* use, where the *development* or *redevelopment* 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*;
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- (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, c.26, as amended; or
 - (g) the issuing of a permit under the *Building Code Act*, in relation to a *building or structure*.
- (2) Subsection 4(1) shall not apply in respect to:
- (a) *local services*, related to a plan of subdivision or within the area to which the plan relates, to be installed or paid for by the owner as a condition of approval under section 51 of the *Planning Act*;
 - (b) *local services* to be installed or paid for by the owner as a condition of approval under section 53 of the *Planning Act*.

LANDS AFFECTED

5. (1) Subject to subsections 6(1) to (6) ("Statutory Exemptions"), and subsections 7(1) to (5) ("Non-Statutory Exemptions"), 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*.

EXEMPTIONS

6. (1) This By-law shall not apply to land that is owned by and used for the purposes of:
- (a) a *board of education*; or
 - (b) any *municipality or local board* thereof.

Rules With Respect to Exemptions From Intensification of Existing Housing

- (2) This By-law shall not apply to that category of exempt *development or redevelopment* described in subsection 2(3) of the *Act* and section 2 of O.Reg. 82/98, namely:
- (a) the enlargement of an existing *dwelling unit* or the creation of one or two additional *dwelling units* in an existing *single detached dwelling* where the total gross floor area of the *dwelling unit(s)* created does not exceed the gross floor area of the existing *dwelling unit* already in the *single detached dwelling*; or

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- (b) the creation of one additional *dwelling unit* in any other existing *residential* building, provided the gross floor area of the additional *dwelling unit* does not exceed the gross floor area of the smallest existing *dwelling unit* in the case of a *semi-detached dwelling*, or does not exceed the *residential* gross floor area of the smallest *dwelling unit* contained in any other *residential* building;
 - (3) Notwithstanding subsection 6(2)(a), *development charges* shall be calculated and collected in accordance with Schedule "B" where the *total floor area* of the additional one or two *dwelling units* is greater than the *total floor area* of the existing *single detached dwelling unit*.
 - (4) Notwithstanding subsection 6(2)(b), *development charges* shall be calculated and collected in accordance with Schedule "B" where the additional *dwelling unit* has a *total floor area* greater than:
 - (a) in the case of *semi-detached dwelling* or *multiple dwelling*, the *total floor area* of the smallest existing *dwelling unit*; and
 - (b) in the case of any other *residential* building, the *total floor area* of the smallest *dwelling unit*.

Rules With Respect to an "Industrial" Expansion Exemption

- (5) This By-law does not apply to the enlargement of the gross floor area of an existing industrial building, if the gross floor area is enlarged by 50 percent or less.
 - (a) For the purpose of applying this exemption, the terms "gross floor area" and "existing industrial building" shall have the same meaning as those terms have in O.Reg. 82/98 made under the *Act*,
 - (b) for the purpose of interpreting the definition of "existing industrial building" contained in O. Reg. 82/98, regard shall be had to the classification of the lands in question pursuant to the *Assessment Act*, and in particular:
 - (i) whether the lands fall within a tax class such that taxes on the lands are payable at the industrial tax rate; and
 - (ii) whether more than fifty percent (50%) of the total floor area of the building has an industrial property code for assessment purposes;
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- (c) despite paragraph (b), self-service storage facilities and retail warehouses are not considered to be industrial buildings;
 - (d) in particular, for the purposes of applying this exemption, the industrial building is considered existing if it is built, occupied and assessed for property taxation at the time of passage of this By-law;
 - (e) the exemption applies where there is a *bona fide* increase in the size of the existing industrial building and the enlarged area is attached to the existing industrial building, and is used for or in connection with an industrial purpose as set out in subsection 1(1) of O. Reg. 82/98 made under the *Act*. Without limiting the generality of the foregoing, this exemption shall not apply where the enlargement is attached to the existing industrial building by means only of a tunnel, bridge, canopy, corridor or other passageway, or through a shared below-grade connection such as a service tunnel, foundation, footing or a parking facility; and
 - (f) The exemption for an existing industrial building provided by this section shall be applied to a maximum of fifty percent (50%) of the *total floor area* before the first enlargement for which an exemption from the payment of development charges was granted pursuant to this By-law or any previous development charges by-law of the *municipality* made pursuant to the *Development Charges Act, 1997*, as amended or its predecessor legislation.
- (6) Notwithstanding subsection 6(5), if the gross floor area of an existing *industrial* building is enlarged by more than 50 percent, *development charges* shall be calculated and collected in accordance with Schedule "B" on the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement.
7. (1) This By-law shall not apply to land that is owned by and used for the purposes of:
- (a) a *non-residential farm building*;
 - (b) a part of a *building or structure* that is used as a public hospital under the *Public Hospitals Act*, R.S.O. 1990, c. P. 40, as amended, or successor legislation, but does not include any other lands or *buildings or structures* owned by a hospital board that are used for purposes other than as a public hospital;
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- (c) *buildings or structures* owned by and used for the purposes of a conservation authority, unless such *buildings or structures* are used primarily for or in connection with (i) recreational purposes for which the conservation authority charges admission and/or fees, or (ii) any commercial purposes.
- (2) Despite anything else in this By-law, *development charges* shall not be imposed in respect of the gross floor area of the *area of worship* within a *place of worship*.

Cap on Coverage

- (3) Notwithstanding subsection 3(5)(b), where there is *non-residential development*, the *development charge* otherwise payable pursuant to this By-law shall be calculated in accordance with the following:
 - (a) for the portion of the *total floor area* of such *development* that is less than or equal to 2.0 times the area of the lot, the *non-residential development charges* as set out in Schedule "B" applies; and
 - (b) for the portion of the *total floor area* of such *development* that is greater than 2.0 times the area of the lot, fifty percent of the *non-residential development charges* as set out in Schedule "B" applies;
 - (c) the land area includes the land area of the parking required for the building, if on a separate lot; and
 - (d) this section does not apply to *retail use* or *retail development*.

Categories of Exempt Institutions

- (4) The following categories of institutions are hereby designated as being exempt from the payment of *development charges*:
 - (a) *total floor area* within *non-residential buildings or structures* used solely for the purposes of a non-profit, licensed, day nursery for the exclusive use by children of the employees of the *owner*, provided that the day nursery is owned and operated by the *owner* and located upon the lands used by the *owner's* primary *non-residential use* or *non-residentially zoned* lands owned by the *owner* immediately abutting the lands used by the *owner* for its primary *non-residential use*.

Temporary Buildings

- (5) Notwithstanding any other provisions of this by-law, a *temporary building or structure* shall be exempt from the payment of *development charges* provided that:
- (a) prior to the issuance of the building permit for the *temporary building or structure*, the *owner* shall provide to the *municipality* securities in the form of a certified cheque or bank draft or a letter of credit acceptable to the Treasurer in the full amount of the *development charges* otherwise payable;
 - (b) within three (3) years of building permit issuance or any extension permitted in writing by the Treasurer, the *owner* shall provide to the *municipality* evidence, to the *municipality's* satisfaction, that the *temporary building or structure* was demolished or removed from the lands within three (3) years of building permit issuance or any extension herein provided, whereupon the *municipality* shall return to the *owner* the securities provided pursuant to subsection (a), without interest;
 - (c) in the event that the *owner* does not provide satisfactory evidence of the demolition or removal of the *temporary building or structure* in accordance with subsection (b), the *temporary building or structure* shall be deemed conclusively not to be a *temporary building or structure* for the purposes of this by-law and the *municipality* shall, without prior notification to the *owner*, transfer the funds or draw upon the letter(s) of credit provided pursuant to subsection (a) and transfer the amount so drawn into the appropriate development charges reserve funds; and
 - (d) the timely provision of satisfactory evidence of the demolition or removal of the *temporary building or structure* in accordance with subsection (b) shall be solely the *owner's* responsibility.

LOCAL SERVICES INSTALLATION

8. Nothing in this By-law prevents *council* from requiring:
- (a) *local services*, related to a plan of subdivision or within the area to which the plan relates, to be installed or paid for by the owner as a condition of approval under section 51 of the *Planning Act*;
 - (b) *local services* to be installed or paid for by the *owner* as a condition of approval under section 53 of the *Planning Act*.
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MULTIPLE CHARGES

9. (1) Where two or more of the actions described in subsection 4(1) may be 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 9(1), if two or more of the actions described in subsection 4(1) occur at different times, or a second or subsequent building permit is issued, resulting in increased, additional or different development, an additional *development charge* on the additional *residential* units and *non-residential* floor area, shall be calculated and collected in accordance with the provisions of this By-law.

DEVELOPMENT CHARGE CREDITS FOR 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 which 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 10(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 10(2) shall not be charged to any *development charge* reserve fund.

DEVELOPMENT CHARGE CREDITS FOR DEMOLITION

11. If a *development* or *redevelopment* involves the demolition of and replacement of a *building* or *structure*, or the conversion from one principal use to another:
 - (1) A credit shall be allowed against the *development charges* otherwise payable, provided that where a demolition permit for the demolition of a *building* or *structure* on the site has been issued and not revoked:
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- (a) before August 31, 2009, and a building permit has been issued for the *development* or *redevelopment* within ten years from the date the demolition permit. or
 - (b) as of and after August 31, 2009, and a building permit has been issued for the *development* or *redevelopment* within five years from the date of the demolition permit.
 - (2) The credit shall be calculated:
 - (a) for any portion of a *building or structure* used for *residential uses*, based on the number of *dwelling units* demolished and/or converted multiplied by the applicable *residential development charge* in place at the time the *development charge* is payable; and/or
 - (b) for any portion of a *building or structure* used for *non-residential uses*, based on the *total floor area* of the building demolished and/or converted multiplied by the current *non-residential development charge* in place at the time the *development charge* is payable.
 - (3) The credit can, in no case, exceed the amount of the *development charge* that would otherwise be payable. Where the amount of any credit pursuant to this section exceeds the amount of the *development charge* otherwise payable under this By-law with respect to the redevelopment, the excess credit shall be reduced to zero and shall not be carried forward unless the carrying forward of such excess credit is expressly permitted by a phasing plan for the development that is acceptable to the Treasurer.
 - (4) For greater certainty, where a building cannot be demolished and/or converted until the new building is constructed, development charges will be payable pursuant to section 12, with any refund related to the demolition credit made, without interest, provided that an application for a refund is made within twelve (12) months after the building permit for the new building is issued. If more than twelve (12) months is required to demolish the existing building, the owner shall make a written request to the *municipality* and the Treasurer may extend the time in which the existing building must be demolished in his or her sole and absolute discretion and upon such terms and conditions as he or she considers necessary or desirable and such decision shall be made prior to the issuance of the first building permit for the new building.
 - (5) This section does not apply and no credit shall be given for a demolished *building* or *structure*, or any part thereof, for which a
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demolition credit is sought, where the *building* or *structure*, or any part thereof, when originally constructed was exempt from the payment of development charges pursuant to this By-law, or any predecessor thereof.

TIME OF CALCULATION AND PAYMENT

12. (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 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.
- (3) Where *development* or *redevelopment* requires an action described in subsection 4(1) after the issuance of a building permit and no *development charges* have been paid, then the *development charges* shall be paid prior to the granting of approval for any action required under subsection 4(1) of this By-law.
- (4) If a *development* or *redevelopment* does not require a building permit but does require one or more of the actions described in subsection 4(1) then, notwithstanding subsection 12(1) above, development charges shall nonetheless be payable prior to the approval of the action described in subsection 4(1).
- (5) *Council* may enter into an agreement with an *owner* to make any *development charges* payable earlier or later than the date provided for in subsection 12(1).

EXEMPTIONS, RELIEF AND ADJUSTMENTS NOT CUMULATIVE

13. Only one of the applicable exemption(s), relief or adjustment(s) set out in this By-law shall be applicable to *development* or *redevelopment*. Where the circumstances of a *development* or *redevelopment* are such that more than one exemption, relief or adjustment could apply, only one exemption, relief or adjustment shall apply and it shall be the exemption, relief or adjustment that results in the lowest *development charges* being payable pursuant to this By-law.

DEVELOPMENT NOT AS REFERENCED IN BUILDING PERMIT



14. (1) Where a building permit is obtained and development charges are paid, but the actual development or redevelopment which is completed is (a) less total floor area than what had been planned and paid for, or (b) a different type of residential use than originally planned, or (c) has fewer dwelling units than originally planned and paid for, then a refund for the excess of the development charges paid over the development charges which would have been payable for the actual development or redevelopment which was completed is only payable if:
- (a) a new building permit is obtained reflecting the actual development or redevelopment; and
 - (b) the application for such new building permit is filed within five (5) years of the issuance of the initial building permit.
- (2) Any such refund which may be payable pursuant to subsection 14(1) above by the municipality shall be paid without interest.

RESERVE FUNDS

15. (1) Monies received from payment of development charges shall be maintained in separate reserve funds as follows: discounted and non-discounted funds.
- (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 Treasurer to divide the reserve funds created hereunder into separate sub-accounts in accordance with the service categories 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) Income received from investment of the *development charge* reserve funds shall be credited to the *development charge* reserve funds in relation to which investment income applies.
 - (5) Where any *development charge*, or part thereof, remains unpaid after the date that the development charge is first payable, the amount unpaid shall be added to the tax roll and shall be collected as taxes.
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- (6) Where any unpaid *development charges* are collected as taxes under subsection 15(5), the monies so collected shall be credited to the *development charge* reserve funds referred to in subsection 15(1).
- (7) The Treasurer shall, in each 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 REPEAL

16. (1) Where this By-law or any development charge prescribed thereunder is amended or repealed either by order of the Ontario Municipal Board or by resolution of the municipal council, the 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 16(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 refund shall include the interest owed under this section; and
 - (c) the Bank of Canada interest rate in effect on the date of enactment of this By-law shall be used.

BY-LAW INDEXING

17. The development charges set out in Schedule "B" to this By-law shall be adjusted annually on April 1, without amendment to this By-law, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics", Catalogue Number 62-007.

BY-LAW REGISTRATION

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

SEVERABILITY

19. If, for any reason, any provision, section, subsection or paragraph 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 or amended, in whole or in part or dealt with in any other way.

REPEAL

20. Upon the coming into force of this By-law and effective at 12:01 am on March 5, 2013, the current Town of Oakville Development Charge By-laws 2009-118 and 2009-119 are repealed.

BY-LAW ADMINISTRATION

21. This By-law shall be administered by the Treasurer.

SCHEDULES TO THE BY-LAW

22. The following Schedules to this By-law form an integral part of this By-law:

Schedule A - Schedule of Municipal Service
Schedule B - Schedule of Development Charges

DATE BY-LAW EFFECTIVE

23. This By-law shall come into force and effect at 12:01 am on March 5, 2013.

SHORT TITLE

24. This By-law may be cited as the "Town of Oakville Development Charge By-law, 2013".

PASSED this 4th day of March, 2013

MAYOR

CLERK

SCHEDULE A
SCHEDULE OF MUNICIPAL SERVICES

	Discounted	Non-Discounted
1.		Services Related to a Highway
2.		Fire Protection Services
3.	Public Transit	
4.	Municipal Parking	
5.	Parks and Recreation	
6.	Library Services	
7.	General Government	

SCHEDULE B
 SCHEDULE OF DEVELOPMENT CHARGES
 Residential Development Charge
 (By Type of Residential Use – per dwelling Unit)

Service	RESIDENTIAL				
	Single & Semi-Detached Dwelling	Apartments - 2 or more Bedrooms	Apartments - 1 Bedroom or less	Multiple Dwelling	Special Need/Special Care/Accessory Units
Town-Wide Services					
Services Related to a Highway	\$ 13,301	\$ 7,759	\$ 5,581	\$ 9,734	\$ 3,822
Fire Protection Services	\$ 436	\$ 254	\$ 183	\$ 319	\$ 125
Public Transit	\$ 541	\$ 316	\$ 227	\$ 396	\$ 155
Municipal Parking	\$ 341	\$ 199	\$ 143	\$ 250	\$ 98
Parks and Recreation	\$ 8,268	\$ 4,823	\$ 3,469	\$ 6,050	\$ 2,376
Library Services	\$ 65	\$ 38	\$ 27	\$ 48	\$ 19
General Government	\$ 250	\$ 146	\$ 105	\$ 183	\$ 72
Total Town Wide Services	\$ 23,202	\$ 13,535	\$ 9,735	\$ 16,980	\$ 6,667

Non-Residential Development Charge

Service	NON-RESIDENTIAL	
	(per ft ² of Gross Floor Area)	(per m ² of Gross Floor Area)
Town-Wide Services		
Services Related to a Highway	\$ 8.54	\$ 91.92
Fire Protection Services	\$ 0.22	\$ 2.37
Public Transit	\$ 0.28	\$ 3.01
Municipal Parking	\$ 0.18	\$ 1.94
Parks and Recreation	\$ 0.39	\$ 4.20
Library Services	\$ -	\$ -
General Government	\$ 0.13	\$ 1.40
Total Town Wide Services	\$ 9.74	\$ 104.84

NOTE: The development charges described in Schedule B are applicable on the date this By-law comes into effect (12:01 am March 5, 2013). These development charges shall be adjusted annually in accordance with section 17 of this By-law.