

THE CORPORATION OF THE COUNTY OF PRINCE EDWARD

BY-LAW NO. 35-2023

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A BY-LAW FOR THE IMPOSITION OF DEVELOPMENT CHARGE FOR SERVICES RELATED  
TO A HIGHWAY

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**WHEREAS** the County of Prince Edward will experience growth through development and re-development;

**AND WHEREAS** development and re-development requires the provision of physical and social services by the County of Prince Edward;

**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 County of Prince Edward or its existing ratepayers while at the same time ensuring new ratepayers 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 County of Prince Edward has given notice of and held a public meeting on the 12th day of January, 2023 in accordance with the Act and the regulations thereto;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF PRINCE EDWARD 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;

"agricultural use" means a bona fide farming operation, including sod farm, the breeding and boarding of horses, and greenhouses;

"apartment unit" means a building containing 4 or more dwelling units which have a common entrance from the street level, and the occupants of which have the right to use common elements, including units defined as Assisted Care Dwelling Units, Despite the foregoing, an apartment dwelling includes stacked townhouse dwellings;

"assisted care dwelling unit" means a unit in a residential building not otherwise defined in this bylaw containing self-contained dwelling units which may include culinary facilities that are designed to accommodate persons with specific needs and where meals are provided within a common eating area;

"bedroom" means a room which can be used as a sleeping quarters but does not include a kitchen, bathroom, living room or dining room, but does include a den or study;

"board of education" has the same meaning as set out in the *Education Act*, R.S.O. 1990, Chap. E.2, as amended, or any successor thereof;

"Building Code Act" means the *Building Code Act*, S.O. 1992, as amended, or any successor thereof;

"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 within the meaning of the *Public Libraries Act*;

- (iii) rolling stock with an estimated useful life of seven years or more; and
- (iv) including interest on borrowing for those expenditures under clauses  
(a) to (d) above that are growth-related;

“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 County of Prince Edward;

“County” means the area within the geographic limits of the County of Prince Edward;

“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 one or more rooms used, designed or intended to be used as a residence and which has access to culinary and or sanitary facilities;

“existing” means the number, use and size that existed as of the date this by-law was passed;

“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, and where the building has only one wall or does not have any walls, the

gross floor area shall be the total of the areas directly beneath any roof-like structure of the building, 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. Industrial wind turbines and industrial solar farms are included as industrial developments;

“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(2) of the *Retirement Homes Act*, 2010;
- (c) by any of the following post-secondary institutions for the objects of the institutions:
  - (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 1.19.3.2; 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 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 municipality or any part or parts thereof;

"local services" means those services, facilities or things which are under the jurisdiction of the County of Prince Edward 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;

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

"municipality" means the Corporation of the County of Prince Edward;

"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*, 2010 applies, that is in good standing under that Act and whose primary objective 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 objective 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 County, 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’

“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 permanent or non-permanent 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, 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;

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

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

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

“stacked townhouse” means a building, other than a duplex, row dwelling, or back-to-back townhouse, containing at least 3 dwelling units; each dwelling unit

separated from the other vertically and/or horizontally and each dwelling unit having a separate entrance to grade;

“temporary building or structure” means a building or structure constructed or erected or placed on land for a continuous period not exceeding eight months, or an addition or alteration to a building or structure that has the effect of increasing the total floor area thereof for a continuous period not exceeding eight months; and

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

## **2. DESIGNATION OF SERVICES**

- 2.1 The category of service for which development charges are imposed under this By-law is Services Related to a Highway.

## **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 development of the lands requires any of the approvals set out in subsection 3.4(a).

### **Area to Which By-law Applies**

- 3.2 Subject to section 3.3, this by-law applies to all lands in the County of Prince Edward whether or not the land or use thereof is exempt from taxation under s.13 or the *Assessment Act*.

- 3.3 Notwithstanding clause 3.2 above, this by-law shall not apply to lands that are owned by and/or used for the purposes of:

- (a) the municipality or a local board thereof;
- (b) a board of education;
- (c) Landed vested in or leased to a university that receives regular and ongoing operating funds from the government for the purposes of post- secondary education if the development is intended to be occupied and used by the university; or

### **3.4 Approvals for Development**

- (a) Development charges shall be imposed on all lands, buildings or structures that are developed for residential or non-residential uses if the development requires:
  - (i) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the Planning Act;
  - (ii) the approval of a minor variance under section 45 of the Planning Act;
  - (iii) a conveyance of land to which a by-law passed under subsection 50(7) of the Planning Act applies;
  - (iv) the approval of a plan of subdivision under section 51 of the Planning Act;
  - (v) a consent under section 53 of the Planning Act;
  - (vi) the approval of a description under section 50 of the Condominium Act, R.S.O. 1990, Chap. C.26, as amended, or any successor thereof; or
  - (vii) the issuing of a permit under the Building Code Act in relation to a building or structure.
- (b) No more than one development charge for services 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 or increasing the need for services.

### Exemptions

#### Exemptions for Residential Units

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) a second residential unit in an existing detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if all buildings and structures ancillary to the existing detached house, semi-detached house or rowhouse cumulatively contain no more than one residential unit.;
- (c) a third residential unit in an existing detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if no building or structure ancillary to the existing detached house, semi-detached house or rowhouse contains any residential units;
- (d) one residential unit in a building or structure ancillary to an existing detached house, semi-detached house or rowhouse on a parcel of urban residential land, if the existing detached house, semi-detached house or rowhouse contains no more than two residential units and no other building or structure ancillary to the existing detached house, semi-detached house or rowhouse contains any residential units; or
- (e) in an existing rental residential building, which contains four or more residential units, the creation of the greater of one residential unit or one per cent of the existing residential units.

3.6 Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to the creation of additional dwelling units in proposed new residential buildings, including structures ancillary to dwellings, subject to the following restrictions:

- (a) A second residential unit in a new detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if all buildings and structures ancillary to the new detached house, semi-detached house or rowhouse cumulatively will contain no more than one residential unit;
- (b) A third residential unit in a new detached house, semi-detached house or rowhouse on a parcel of land on which residential use, other than ancillary residential use, is permitted, if no building or structure ancillary to the new detached house, semi-detached house or rowhouse contains any residential units; or

- (c) One residential unit in a building or structure ancillary to a new detached house, semi-detached house or rowhouse on a parcel of urban residential land, if the new detached house, semi-detached house or rowhouse contains no more than two residential units and no other building or structure ancillary to the new detached house, semi-detached house or rowhouse contains any residential units.

Exemption for Industrial Development:

3.7 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.

3.8 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 subsection 1) by the amount of the enlargement

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

3.10 The exemption for 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

Other Exemptions

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

- (a) The County will refund D.C.s paid for temporary buildings or structures when in the opinion of the Chief Building Official that the building or structure has been removed within eight months of building permit issuance;

- (b) The creation of residential units that are affordable housing units required to be included in a development or redevelopment pursuant to a by-law passed under section 34 of the *Planning Act* to give effect to the policies described in subsection 16 (4) of that Act; and
- (c) Non-profit housing development.

Other Reductions

3.12 Notwithstanding any other provision of this by-law, development charges for rental housing development shall be reduced in accordance with the following:

- (a) A development charge for a residential unit intended for use as a rented residential premises with three or more bedrooms shall be reduced by 25 per cent;
- (b) A development charge for a residential unit intended for use as a rented residential premises with two bedrooms shall be reduced by 20 per cent; and
- (c) A development charge for a residential unit intended for use as a rented residential premises not referred to in paragraph 1 or 2 shall be reduced by 15 per cent.

3.13 Notwithstanding any other provision of this by-law, development charges shall be reduced in accordance with the following:

- (a) development charges imposed during the first year the by-law is in force shall be reduced to 80 per cent of the maximum development charge that could otherwise be imposed by the by-law.
- (b) development charges imposed during the second year the by-law is in force shall be reduced to 85 per cent of the maximum development charge that could otherwise be imposed by the by-law.
- (c) development charges imposed during the third year the by-law is in force shall be reduced to 90 per cent of the maximum development charge that could otherwise be imposed by the by-law.
- (d) development charges imposed during the fourth year the by-law is in force shall be reduced to 95 per cent of the development charge that would otherwise be imposed by the by-law.

## Amount of Charges

### Residential

- 3.14 The development charges set out in Schedule "A" 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

- 3.15 The development charges described in Schedule "A" 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.
- 3.16 Notwithstanding s.3.14 and s.3.15, the development charges described in Schedule A to this by-law shall be imposed on industrial wind turbines, and calculated at the single-detached and semi-detached dwelling (greater than 2 bedroom) rate.
- 3.17 Notwithstanding s.3.14 and s.3.15, the development charges described in Schedule A to this by-law shall be imposed on industrial solar farms and calculated at the single-detached and semi-detached dwelling (greater than 2 bedroom) rate, for each 500 kW of industrial solar farm development.

### Park Model Trailers

- 3.18 Despite any other provision of this By-law:

- (a) Development charges for park model trailers are required to be paid in full at the time of building permit issuance
- (b) Development charges will be imposed for park model trailers at the residential apartment - bachelor and one-bedroom dwelling unit rate established in Schedule A to this by-law
- (c) If a park model trailer is demolished or removed within five (5) years of the issuance of the building permit relating thereto, the owner may make application to the County for a refund.

- (d) On receipt of evidence to the satisfaction of the County, which establishes that a park model trailer has been removed or demolished in accordance with section 3.18(c), the development charges paid in regard to that park model trailer may be refunded in full, but without interest if:
  - (i) that applicant establishes to the satisfaction of the County that they are the current owner or lessee of the parcel of land on which the park model trailer was located; and
  - (ii) a development charge was paid with respect to the park model trailer in accordance with section 3.18(a )

#### Reduction of Development Charges for Redevelopment

3.19 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 36 months prior to the date of payment of development charges in regard to such redevelopment was, or is to be demolished, in whole or in part, or converted from one principal use to another principal use on the same land, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by the following amounts:

- (a) in the case of a residential building or structure, or in the case of a mixed- use building or structure, the residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charge under subsection 3.14 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 3.15, 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.

3.20 Notwithstanding Section 3.19, development charges shall not be reduced in

accordance with Section 3.19 where the redevelopment involves the demolition or conversion of a development that would be exempt from development charges under this by-law.

#### Time of Payment of Development Charges

- 3.21 Development charges imposed under this By-law are calculated, payable, and collected upon issuance of a building permit for the development.
- 3.22 Despite Section 3.21, 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.
- 3.23 Notwithstanding Sections 3.21 and 3.22, development charges for rental housing and institutional developments are due and payable in 6 instalments commencing with the first instalment payable on the date of occupancy, and each subsequent instalment, including interest, payable on the anniversary date each year thereafter.
- 3.24 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 2 years of building permit issuance, the Development Charges under Section 3.14 and 3.15 shall be calculated on the rates set out in Schedule "A" on the date of the planning application, including interest. Where both planning applications apply, Development Charges under Sections 3.14 and 3.15 shall be calculated on the rates, including interest, set out in Schedule "A" on the date of the later planning application.
- 3.25 Interest for the purposes of Sections 3.23 and 3.24 shall be determined as the base rate plus 1%
  - (a) The base rate shall be equal to the average prime rate on:
    - (i) October 15 of the previous year, if the adjustment date is January 1,
    - (ii) January 15 of the same year, if the adjustment date is April 1,
    - (iii) April 15 of the same year, if the adjustment date is July 1, and
    - (iv) July 15 of the same year, if the adjustment date is October 1.
  - (b) The average prime rate, on a particular date means, the mean, rounded to the nearest hundredth of a percentage point, of the annual rates of

interest announced by each of the Royal Bank of Canada, The Bank of Nova Scotia, the Canadian Imperial Bank of Commerce, the Bank of Montreal and The Toronto-Dominion Bank to be its prime or reference rate of interest in effect on that date for determining interest rates on Canadian dollar commercial loans by that bank in Canada.

#### **4. PAYMENT BY SERVICES**

- 4.1 Despite the payment required under subsections 3.14 and 3.15, 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 January 1st, 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" – Residential and Non-Residential Development Charges

#### **7. CONFLICTS**

- 7.1 Where the County and an owner or former owner have entered into an agreement with respect to land within the area to which this By-law applies, and a conflict exists between the provisions of this By-law and such agreement, the provisions of the agreement shall prevail to the extent that there is a conflict.
- 7.2 Notwithstanding Section 7.1, where a development which is the subject of an agreement to which Section 7.1 applies, is subsequently the subject of one or more of the actions described in subsection 3.4(a), an additional development charge in respect of the development permitted by the action shall be calculated, payable and collected in accordance with the provisions of this By-law if the development has the effect of increasing the need for services, unless such agreement provides otherwise.

#### **8. SEVERABILITY**

- 8.1 If, for any reason, any provision of this By-law is held to be invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law

shall continue in full force and effect until repealed, re-enacted, amended or modified.

**9. DATE BY-LAW IN FORCE**

9.1 This By-law shall come into effect at 12:01 AM on March 1, 2023.

**10. DATE BY-LAW EXPIRES**

10.1 This By-law will expire at 12:01 AM on February 28, 2032 unless it is repealed by Council at an earlier date.

Read a First, Second and Third time and finally passed this 28<sup>th</sup> day of February, 2023.

  
Catalina Blumenberg, **CLERK**



  
Steve Ferguson, **MAYOR**

**SCHEDULE "A" TO BY-LAW NO. 35-2023****SCHEDULE OF DEVELOPMENT CHARGES**

| Service/Class of Service      | RESIDENTIAL                                     |                                                 |                           |                                     |                               |                               | NON-RESIDENTIAL                |                        |                                        |
|-------------------------------|-------------------------------------------------|-------------------------------------------------|---------------------------|-------------------------------------|-------------------------------|-------------------------------|--------------------------------|------------------------|----------------------------------------|
|                               | Single and Semi-Detached Dwelling (>2 Bedrooms) | Single and Semi-Detached Dwelling (≤2 Bedrooms) | Apartments - 2 Bedrooms + | Apartments - Bachelor and 1 Bedroom | Other Multiples (>2 Bedrooms) | Other Multiples (≤2 Bedrooms) | Wind & Solar Energy Facilities | Agricultural Buildings | Industrial, Commercial & Institutional |
| Services Related to a Highway | 10,404                                          | 7,516                                           | 9,099                     | 4,984                               | 9,375                         | 6,013                         | 10,404                         | 1,46                   | 4,97                                   |