THE CORPORATION OF THE TOWN OF GODERICH
BY-LAW NO. 19 OF 2011

BEING A DEVELOPMENT CHARGES BY-LAW

WHEREAS section 2(1) of the Development Charges Act, 1997 S.O. 1997, c.27, authorized the Council of a municipality to pass By-laws for the imposition of development charges against land located in the municipality where the development of land would increase the need for municipal services as designated in the By-law;

AND WHEREAS the Council of the Corporation of the Town of Goderich has completed a Development Charges Background Study in accordance with section 10 of the Development Charges Act, 1997;

AND WHEREAS the Council of the Corporation of the Town of Goderich has given notice of its intention to pass a By-law and held a public meeting in accordance with section 12 of the Development Charges Act, 1997;

NOW THEREFORE the Council of the Corporation of the Town of Goderich **HEREBY ENACTS AS FOLLOWS**:

PART I DEFINITIONS

1. In this By-law,

background study means the study required prior to passage of this By-law of the increases in services, and the capital costs associated therewith, projected as a result of development;

capital costs means costs incurred or proposed to be incurred by the Corporation or a local board thereof directly or under an agreement;

a. costs to acquire land or an interest in land, including a leasehold interest;

b. costs to improve land;

c. costs to acquire, lease, construct or improve buildings and structures;

d. costs to acquire, lease, construct or improve facilities including:

   1. rolling stock with an estimated useful life of seven years or more,

   2. furniture and equipment, other than computer equipment, and

   3. materials acquired for circulation, reference or information purposes by a library board as defined in the Public Libraries Act;

e. costs to undertake studies in connection with any of the matters referred to in paragraphs a-d;

f. costs of the development charge background study; and

g. interest on money borrowed to pay for costs described in paragraphs a-d

only the capital component of costs to lease anything or to acquire a leasehold interest is included as a capital cost;

Corporation means the Corporation of the Town of Goderich;

Council means the Council of the Corporation;

development, which includes redevelopment, 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 changing the size or usability thereof, and includes all enlargement of existing development which creates new dwelling units; and redevelopment has a corresponding meaning;

development charge means a charge imposed for increased capital costs required because of increased need for service arising from development of the area to which this By-law applies;

front-end payment means a payment made by an owner pursuant to a front-ending agreement, which may be in addition to a development charge that the owner is required to pay under this By-law, to cover the capital costs of the services designated in the agreement that are required to enable land to be developed within the Town;

front-ending agreement means an agreement made under section 44 of the Development Charges Act, 1997, as amended, under Part V of this By-law.

Growth-related net capital cost means the portion of the net capital cost of services that is reasonably attributable to the need for such net capital cost that results or will result from development within any part of the Town of Goderich;

local board means a public utility commission, transportation commission, public library board, board of park management, board of health, police service board, 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 of the Corporation or any part or parts thereof, but does not include a board as defined in subsection a(1) of the Education Act;

Minister means the Minister of Municipal Affairs and Housing;

net capital cost means the capital cost less capital grants, subsidies and other contributions made to the Corporation or that the Council of the Corporation anticipates will be made, including conveyances or payments under section 41, 50 and 53 of the Planning Act, 1990, as amended, in respect of the capital cost;

OMB means the Ontario Municipal Board;

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;

services means those services designated in Parts III and IV of this By-law or in an agreement made under Part V of this By-law;

Treasurer means the treasurer for the Corporation of the Town of Goderich;

Town means the geographic territory within the Town of Goderich.

PART II APPLICATION

2. Subject to section 3, this By-law applies to all lands in the Town, whether or not the land or use of the land is exempt from taxation under section 3 of the Assessment Act.

3. This By-law does not apply to land that is owned by and used for the purposes of,

   a. a board of education;

   b. the Corporation or any local board thereof;

4. Subject to section 5, Development Charges shall be imposed upon and shall be applied, calculated and collected in accordance with the provisions of this By-law on all land to be developed for residential, commercial, community facility, and any other use not defined, where:

   a. the development of the land will increase the need for services; and

   b. the development requires any one of;

      1. the passing of a zoning By-law or of an amendment thereto under section 34 of the Planning Act,

      2. the approval of a minor variance under section 45 of the Planning Act,

      3. a conveyance of land to which a By-law passed under Subsection 50 (7) of the Planning Act applies,

      4. the approval of a plan of subdivision under section 51 of the Planning Act,

      5. a consent under section 53 of the Planning Act,

      6. the approval of a description under section 50 of the Condominium Act, or

      7. the issuing of a permit under the Building Code Act, in relation to a building or structure.

5. Section 4 shall not apply in respect of,

   a. those services, relating 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; and

   b. those services to be installed or paid for by the owner as a condition of approval under section 53 of the Planning Act.

   c. local connections to watermains, sanitary sewers and storm drainage facilities installed at the expense of the owner including amounts imposed under a By-law passed under section 221 of the Municipal Act, as amended.

6. Development charges as set out in Parts III and IV of this By-law shall be imposed upon all lands that are developed for residential, commercial, industrial, community facility or other use not herein defined or any combination of uses in accordance with this By-law, insofar as:

6.1 the growth-related net capital costs are attributable to the need for such net capital cost that results or will result from development, and;

6.2 the growth-related net capital costs are attributable to the service or standard of service being provided at the time the development charges are being calculated.

7. Where two or more of the actions described in Subsection 4.2 are 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.

8. Notwithstanding section 7, if two or more of the actions described in Subsection 4.(b) occur at different times, and if the subsequent action has the effect of increasing the need for municipal services as designated in sections 10 and 15, an additional development charge shall be calculated and collected in accordance with the provision of this By-law.

PART III RESIDENTIAL DEVELOPMENT CHARGES

9. In this part:

9.1 Dwelling means a building or part thereof designated, intended and occupied as one or more dwelling units but shall not include a travel trailer, mobile home, camper, motor home, hotel or motel. For the purposes of this By-law, permitted dwellings are classified as follows;

9.1.1 Dwelling, Apartment, means a building or part thereof containing 4 or more dwelling units which may share common facilities in the building such as halls and stairways, laundry, storage or recreation rooms, and outdoor parking, amenity, and refuse areas;

9.1.2 Dwelling, Converted means a dwelling erected prior to the passing of this By-law which, because of size and design, the interior can be converted to provide one or more additional dwelling units;

9.1.3 Dwelling, Duplex, means a separate building containing two dwelling units horizontally attached each of which has an independent entrance either directly from the outside or through a common vestibule;

9.1.4 Dwelling, Mixed Use Apartment means a building exceeding one storey in height and consisting of one or more dwelling units and shall contain a commercial use on the main floor;

9.1.5 Dwelling, Multiple Attached, means a separate building that is divided vertically into three or more dwelling units each of which has a separate and independent entrance at grade and separated from the adjoining unit or units by a common unpierced wall with no interior access between each dwelling unit and includes a row house, or townhouse;

9.1.6 Dwelling, Semi-detached, means a separate dwelling containing two dwelling units vertically attached by a common wall each of which has an independent entrance from the outside;

9.1.7 Dwelling, Semi-detached, Link, means one of a pair of two single dwelling units attached below grade by means of a common masonry wall connecting the pair of

dwelling units, each of which has an independent entrance directly from the outside;

9.1.8 Dwelling, Single-Family Detached, means a completely detached permanent dwelling to which entrance is gained only by a private entrance outside the building, and containing only one family dwelling unit and occupied by not more than one family;

9.1.9 Dwelling, Triplex, means a separate building that is no more than two storeys in height and is divided horizontally into three dwelling units each of which has an independent entrance either directly or through a common vestibule;

9.1.10 Dwelling, Fourplex, means a separate building consisting of four dwelling units with two units at ground level and two units at second floor level;

9.2 development charge means residential development charge;

9.3 dwelling unit means a building or part thereof designed, intended and occupied as one or more dwelling units but shall not include a travel trailer, mobile home, camper, motor home, hotel or motel;

9.4 grade means the average level of finished ground adjoining a residential building at all exterior walls;

9.5 gross floor area means the total area of all floors above grade of a dwelling unit measured between the outside surfaces of exterior walls and the centerline or party wells dividing the dwelling unit from another dwelling unit or other portion of a building;

9.6 residential means the use of a building or structure or parts thereof as a dwelling;

10. Development charges imposed upon land to be developed for residential use shall be based upon the following designated services provided by the Corporation:

a. sanitary sewer services, including sanitary sewage collection and treatment facilities and trunk services;

b. police services, including facilities and equipment needed due to increased demand;

c. water services including water treatment and distribution facilities;

d. transportation including road construction and reconstruction;

e. studies and costs of implementing the Development Charges By-law.

11. Subject to the provisions of this part and this By-law, development charges imposed upon land to be developed for residential use shall be calculated and collected at the following base rates:

Type of Residential Dwelling Unit	Per Unit
all residential dwelling units except apartment dwelling units	$270.66
apartment dwelling units	$135.33

12. Development charges payable under section 11 shall be adjusted with respect to those developments in respect of which a development charge was previously paid under the terms of a subdivision agreement with the Corporation executed prior to the date of the passing of this By-law.

13. Exceptions to the development charges By-law:

13. a) Section III shall not apply where the development:

13. a)1. creates one or two additional dwelling units in an existing single detached dwelling if the total gross floor area of the additional dwelling unit or units does not exceed the gross floor area of the existing dwelling unit;

13.a)2. creates one additional dwelling unit in a semi-detached or row dwelling if the total gross floor area of the additional dwelling unit does not exceed the gross floor area of the existing dwelling unit;

13.a)3. creates one additional dwelling unit in any other residential dwelling if the total gross floor area of the additional dwelling unit does not exceed the gross floor area of the smallest dwelling unit contained in the building;

13. b) Section III shall not apply where a residential unit or units existed on a property within two years prior to an application for a building permit(s) for new residential dwelling(s) on the same property. The new units are not subject to the development charge up to and including the original number of units that existed on the site within two years prior to the application for building permit (s) on the property. All units in excess of original number as stated above are subject to the development charge.

13. c) The conversion of any non-residential building or part thereof, to a residential use is subject to the following method of calculating a development charge:

13.c)1. calculate the development charge applicable to the residential type development based on the type of development and number of units;

13.c.2. calculate the development charge that would be applicable to non-residential development for gross floor area of the building;

13.c.3. subtract 13.c.2. from 13.c.1. to determine the amount of the development charge. If the number is negative, no charge is payable. A negative number does not constitute a credit under this bylaw.

PART IV NON-RESIDENTIAL DEVELOPMENT CHARGES

14. In this Part:

14.1 development charge means non-residential development charge;

14.2 grade means the average level of finished ground adjoining a building at all exterior walls;

14.3 gross floor area means the total area of all floors above and below grade within the exterior perimeter of a building;

14.4 non-residential means designed, adapted or used for any purpose, including commercial, industrial, community facility, but does not include land designated, adapted or used for residential purposes under Part III of this by-law;

14.5 commercial shall mean the use of land, structure or building for the purpose of buying or selling commodities and/or supplying services, but does not include an industrial or institutional use;

14.6 industrial shall mean the use of land for the purpose of manufacturing, assembly making, preparing, inspecting, ornamenting, finishing, treating, altering, repairing, warehousing, or storing or adapting for sale of goods, substance, article or thing, including the storage of building and construction equipment and materials;

14.7 community facility means a use of land, building or structure such as:

14.7.1 public utilities such as a waterworks system, sewage works system, electric power, gas, communications facilities, road and railway networks, flood and erosion control works;

14.7.2 government buildings such as administration offices, court houses, post offices, assessment and registry offices;

14.7.3 cultural facilities such as libraries, museums, auditoriums, theatres, and civic and convention centres;

14.7.4 sport facilities such as arenas, race tracks, fair grounds and stadiums;

14.7.5 public service facilities such as police and fire stations, cemeteries, works yards and garages;

14.7.6 institutions such as churches, schools, hospitals, day care centres, group homes, fraternal or other non-profit organizations.

15. Development charges imposed upon land to be developed for non-residential use shall be based upon the following designated services provided by the Corporation:

a. sanitary sewer system...(sanitary sewage collection and treatment facilities including trunk services);

b. water services including treatment and distribution;

c. police services including facilities and equipment needed due to increased demand;

d. transportation including road construction and reconstruction

d. studies and costs of implementing the Development Charges By-Law

16. Subject to the provisions of this part and this by-law, development charges imposed upon land to be developed for non-residential use shall be calculated and collected at the base rate of:

16.1 commercial: $0.79/sq. m.;

16.2 community facility: $0.79/sq. m.

16.3 industrial: there is no charge imposed against industrial development.

17. Exceptions to the Development Charges By-law:

17.1 Development charges payable under section 16 shall be adjusted to account for the full amount of any development charge paid under the terms of a subdivision agreement with the Corporation executed prior to the date of the passing of this By-law;

17.2 Development charges shall not apply as follows:

17.2.1 to any non-residential building existing on the property within two years prior to the application of a building permit for a new building on the same property up to and including the same non-residential building area that existed on the site within two years prior to application for a building permit. All building area in excess of the area stated above is subject to the development charge;

17.2.2 conversion of any existing residential building, or part thereof, to non-residential use as long as the gross floor area of the existing building is not enlarged. All building area in excess of the existing gross floor area is subject to the development charge.

18. Subject to the provisions of this part and this By-law, development charges imposed upon land to be developed for mixed non-residential and residential use shall be calculated and collected as follows:

18.1 development charges against that portion of the land to be developed for residential use shall be calculated and collected in accordance with Part III of this By-law;

18.2 development charges against that portion of the land to be developed for non-residential use shall be calculated and collected in accordance with Part IV of this By-law.

PART V FRONT-ENDING AGREEMENT

19. The services which may be the subject of a front-ending agreement must be services to which the work relates and to which this By-law relates and are set out below,

a. sanitary sewage service, including sewage treatment facilities, trunk sanitary sewers and pumping stations;

b. water service, including supply and distribution facilities;

c. transportation including roads, construction and reconstruction.

20. A front-ending agreement may provide for the following to be included in the cost of the work:

a. the reasonable costs of administering the agreement; and

b. the reasonable costs of consultants and studies required to prepare the agreement.

21. A front-ending agreement must contain the following:

a. a description of the work to be done, a definition of the area of the municipality that will benefit from the work and the estimated cost of the work;

b. the proportion of the cost of the work that will be borne by each party to the agreement;

c. the method for determining the part of the costs of the work that will be reimbursed by the persons who, in the future, develop land within the area defined in the agreement;

d. the amount, or a method for determining the amount, of the non-reimbursable share of the costs of the work for the parties and for persons who reimburse parts of the costs of the work; and

e. a description of the way in which amounts collected from persons to reimburse the costs of the work will be allocated.

22. A front-ending agreement may contain other provisions in addition to those required under section 21.

23. A front-ending agreement may provide for a person who is not a party to the agreement to pay an amount only if the person develops land and a development charge could be imposed for the development under section 4.

24. A front-ending agreement may provide for persons who reimburse part of the costs of the work borne by the parties to be themselves reimbursed by persons who later develop land within the area defined in the agreement.

25. A front-ending agreement must not provide for a person to be reimbursed for any part of their non-reimbursable share of the costs of the work as determined under the agreement.

26. A front-ending agreement comes into force on the day the agreement is made.

27. A front-ending agreement that is terminated by the OMB shall be deemed to have never come into force.

28. A person who develops land within the area defined in a front-ending agreement shall pay any amount to the Corporation that the agreement provides upon a building permit being issued for the development unless the front-ending agreement provides for the amount to be payable on a later day or on an earlier day.

29. A front-ending agreement may provide that an amount payable for development that requires approval of a plan of subdivision under section 51 of the Planning Act or a consent under section 53 of the Planning Act and for which a subdivision agreement or consent agreement is entered into, be payable immediately upon the parties entering into the subdivision or consent agreement.

30. The Corporation shall place money received under a front-ending agreement into a special account, which shall be used, in accordance with the agreement, only to pay for work provided for under the agreement and to reimburse those who, under the agreement, have a right to be reimbursed.

31. Notwithstanding section 30, if the Corporation receives money from parties to the agreement to pay for work provided under the agreement, the Corporation shall, if the agreement so provides return to the parties any amounts that are not needed to pay for the work.

32. If an objection to a front-ending agreement is made, the Corporation shall retain any money received from persons who are not parties to the agreement until all the objections to the agreement are disposed of by the OMB. If the OMB makes an order that the agreement be terminated unless amend it in accordance with the OMB's order the Corporation shall retain the money until the agreement is either terminated or amended.

33. A person is entitled to be given a credit towards a development charge for the amount of their non-reimbursable share of costs of work under a front-ending agreement.

34. If the work would result in a level of service that exceeds the average level of the service in the ten (10) year period immediately preceding the preparation of the background study for this By-law, the amount of the credit must be reduced in the same proportion that the costs of the work that relate to a level of service that exceeds that average level of service bear to the costs of the work.

35. Credits under section 33 shall be treated as though they were credits under section 44.

36. A party to a front-ending agreement may register the agreement or a certified copy of it against the land to which it applies.

37. If any amount is payable under a front-ending agreement by a person who develops land, the Corporation shall not issue a building permit for the development until the amount is paid.

PART VI RESERVE FUNDS

38. The Corporation shall establish a separate reserve fund for each service to which the development charge relates.

39. Payments received by the Corporation under Parts III and IV of this By-law shall be paid into the reserve fund or funds to which the charge relates and shall be used only for capital costs.

40. Notwithstanding section 39, the Corporation may borrow money from a reserve fund but if it does so the Corporation shall repay the amount used plus interest at a rate not less than the Bank of Canada rate on the day this By-law comes into force.

41. The Treasurer shall each year on or before such date as the Council may direct, give the Council a financial statement relating to this By-law and the reserve funds established under section 38.

42. The Treasurer shall give a copy of the statement required by section 41 to the Minister within sixty (60) days after giving the statement to the Council.

PART VII CREDITS

43. The Corporation may agree to allow a person to perform work that relates to a service to which this By-law relates, and shall give the person a credit towards the development charge in accordance with the agreement.

44. The amount of the credit is the reasonable cost of doing the work as agreed by the Corporation and the person who is to be given the credit.

45. No credit may be given for any part of the cost of work that relates to an increase in the level of service that exceeds the average level of service.

46. A credit, or any part of it, may be given before the work for which the credit is given is completed.

47. A credit given in exchange for work done is a credit only in relation to the service to which the work relates.

48. If the work relates to more than one service, the credit for the work must be allocated, in the manner agreed by the Corporation, among the services to which the work relates.

49. The Corporation may agree that a credit given be in relation to another service to which this By-law applies.

50. The Corporation may agree to change a credit so that it relates to another service to which this By-law relates.

51. A credit may not be transferred unless the holder and person to whom the credit is to be transferred have agreed in writing to the transfer, and the Corporation has agreed to the transfer, either in the agreement under which the holder was given the credit or subsequently.

52. The transfer of a credit is not effective until the Corporation transfers it.

53. The Corporation shall transfer a credit upon being requested to do so by the holder, the person to whom the credit is to be transferred or the agent of either of them and being given proof that the conditions in section 51 are satisfied.

54. A credit that relates to a service may be used only with respect to that part of a development charge that relates to the service.

55. A credit may only be used by the holder or the holder's agent.

PART VIII ADMINISTRATION

56. A development charge is payable for a development on the date a building permit is issued for the development.

57. 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.

58. Despite section 56, where an approval of a plan of subdivision is required under section 51 of the Planning Act, on the parties entering into a subdivision agreement development, charges are payable immediately for the following services:

    a. sanitary sewage service, including sewage treatment facilities, trunk sanitary sewers and pumping stations;

    b. water service including supply and distribution facilities;

    c. roads, construction and reconstruction

59. Despite sections 56, 57, and 58, the Corporation may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable.

60. The total amount of a development charge payable under an agreement under section 59 is the amount of the development charge that would be determined under this By-law on the day specified in the agreement or, if no such day is specified, at the earlier of,

    a. the time the development charge of any part of it is payable under the agreement; and

    b. the time the development charge would have been payable in the absence of the agreement.

61. An agreement under section 59 may allow the Corporation to charge interest, at a rate stipulated in the agreement, on that part of the development charge paid after it would otherwise be payable.

62. An owner may complain in writing to the Council in respect of the development charge imposed by the Corporation that,

    a. the amount of the development charge was incorrectly determined;

b. whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined;

c. there was an error in the application of this By-law.

63. A complaint may not be made under section 62 later than 90 days after the day the development charge, or any part of it, is payable.

64. The complaint must be in writing, must state the complainant's name, the address where notices can be given to the complainant and the reasons for the complaint.

65. The Council shall hold a hearing into the complaint and shall give the complainant an opportunity to make representation at the hearing.

66. The Clerk of the Corporation shall mail a notice of the hearing to the complainant at least fourteen (14) days before the hearing.

67. Council may:

a. dismiss the complaint; or

b. rectify any incorrect determination or error that was the subject of the complaint.

68. The Clerk of the Corporation shall mail to the complainant a notice of the Council's decision and of the last day for appealing the decision, which shall be the day that is forty (40) days after the day the decision is made. The notice required under this section must be mailed not later than twenty (20) days after the day the Council's decision is made.

69. Nothing in this By-law prevents the Council from passing subsequent Development Charges By-laws applying to the area covered under this By-law.

70. A certified copy of this By-law may be registered against the land to which it applies.

71. Development charges imposed by this By-law may be adjusted annually, without amendment to this By-law commencing on the first anniversary date of this By-law and each annual date thereafter in accordance with the Statistics Canada Quarterly, Construction Price Statistics catalogue number 62-007.

72. Where a development charge or any part of it remains unpaid after it is payable, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as taxes.

73. This By-law shall be administered by the Chief Building Official.

74. This By-law shall come into force and effect on the date of its enactment.

75. This By-law shall continue in force and effect for a period not to exceed five(5) years from the date of its enactment, unless it is repealed at an earlier date by subsequent By-law.

76. This By-law may be cited as the Development Charges By-law.

77. That By-law No. 27-2005 shall be repealed upon this By-law coming into force and effect.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 7th DAY OF MARCH, 2011.

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MAYOR, Deb Shewfelt

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CLERK, Larry J. McCabe