

Bill No. 318
2020

By-law C.P.-____-____

A by-law respecting the payment of
Development Charges.

WHEREAS the *Development Charges Act, 1997 S.O. 1997, c.27*, as amended authorizes by-laws of the council of a municipality for the imposition of Development Charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies.

NOW THEREFORE the Municipal Council of The Corporation of the City of London hereby enacts as follows:

DEVELOPMENT CHARGES BY-LAW

PART I INTERPRETATION

1. Definitions

In this By-law, unless a contrary intention appears,

"Accessory use" means the part of a Development that is incidental, subordinate and exclusively devoted to the principal use;

"Agricultural use" means the growing of crops, including nursery, biomass, and horticultural crops; raising of livestock, raising of other animals for food, fur or fibre, including poultry and fish, aquaculture, apiaries, agro-forestry, maple syrup production, and associated on-farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities, and accommodation for full-time farm labour when the size and nature of the operation requires additional employment, but excluding in all circumstances any residential or commercial component thereof;

"Arterial" refers to street classifications of Rapid Transit Boulevard, Urban Thoroughfare, Civic Boulevard, Main Street and Rural Thoroughfare in the Council-adopted London Plan;

"Apartment" means a residential building, divided vertically and/or horizontally, containing two or more Dwelling units each of which has an independent entrance either directly from the outside or through a common corridor, hallway or vestibule, and does not include Rowhousing or Semi-detached dwellings;

"Application Approval" means the day a Zoning By-law Amendment or Site Plan Application is in force in accordance with the *Planning Act*;

"Built Area" means the Built Area existing from time to time as identified in the City's Official Plan as approved and identified on Schedule 3;

"Chief Building Official" means the individual appointed by Municipal Council in accordance with the *Building Code Act*;

"City" means the Corporation of the City of London;

"City Engineer" means individual holding the title of City Engineer in accordance with the City's Civic Administration By-law;

"City Services" are services that serve, in whole or in part, growth needs which are normally constructed or provided by the City or its Boards or Commissions, including, but not limited to services related to a highway (Roads and Related Services), Wastewater, Stormwater, Water, Fire, Police, Library, Waste Diversion, Parks and Recreation and Transit;

“City Services Reserve Fund” (CSRF) means any one of several reserve funds used as a depository for collection of Development Charges and as a funding source for growth works and administered in accordance with the *Development Charges Act*,

“City Treasurer” means the individual appointed by Municipal Council in accordance with the *Municipal Act*,

“Claim” may represent an Owner request for reimbursement from a Development Charge reserve fund or a draw made on the City Services Reserve Fund all in accordance with the provisions made for such work in the Development Charges Background Study and the provisions of this By-law;

“Commercial Development” is a building used for:

- (a) Office or administrative uses, including the practice of a profession, or the carrying on of a business or occupation or where most of the activities in the building provide support functions to an enterprise in the nature of trade, and for greater certainty shall include, but not be limited to, the office of a physician, lawyer, dentist, architect, engineer, accountant, real estate or insurance agency, veterinarian, surveyor, appraiser, contractor, builder, land Owner, employment agency, security broker, mortgage company, medical clinic; or
- (b) Retail purposes including activities of offering foods, wares, merchandise, substances, articles or things for sale or rental directly to the public and includes offices and storage within the same building, which support, are in connection with, related or ancillary to such uses, or activities providing entertainment and recreation. Retail purposes shall include but not be limited to: conventional restaurants; fast food restaurants; night clubs, concert halls, theatres, cinemas, movie houses, and other entertainment related businesses; automotive fuel stations with or without service facilities; special automotive shops/vehicle repairs/collision services/car or truck washes; vehicle dealerships; commercial truck service establishments, regional shopping centres; community shopping centres; neighbourhood shopping centres, including more than two stores attached and under one ownership; department/discount stores; banks and similar financial institutions, including credit unions (excluding freestanding bank kiosks), money handling and cheque cashing facilities; warehouse clubs or retail warehouses; food stores, pharmacies, clothing stores, furniture stores, department stores, sporting goods stores, appliance stores, garden centres (but not a garden centre defined as exempt under section 35 of this By-law), government owned retail facilities, private daycare, private schools, private lodging and retirement homes, private recreational facilities, sports clubs, golf courses, skiing facilities, race tracks, gambling operations, funeral homes, motels, hotels, restaurants, theatres, facilities for motion picture, audio and video production and distribution, sound recording services, passenger stations and depots, dry cleaning establishments, laundries, establishments for commercial self-service uses, automotive recycling/wrecking yards, kennels;

“Committed Financing” is the funding that has been assigned to the respective growth capital project for works where a contractor/consultant has been engaged and a cost estimate is known;

“Complete Application” means:

- (a) for Site Plan applications, the day the City deems all requirements of the record of site plan consultation have been met; or
- (b) if Site Plan application does not apply, the day a Zoning By-law Amendment application is deemed complete as defined in the *Planning Act*;

“Deferred Development Type” means development types for a:

- (a) Non-profit Housing Development;
- (b) Rental Housing Development that is not a Non-profit Housing Development; or
- (c) Deferred institutional development for use:

- a. as a long-term care home within the meaning of subsection 2(1) of the *Long-Term Care Homes Act*;
- b. as a retirement home within the meaning of subsection 2(1) of the *Retirement Homes Act*;
- c. by any of the following post-secondary institutions for the objects of the institution:
 - (i) a university in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario,
 - (ii) a college or university federated or affiliated with a university described in subclause (i), or
 - (iii) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act*;
- 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;

"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 changing the size or usability thereof, and includes all enlargement of existing Development which creates new Dwelling units or additional Non-residential space and includes work that requires a change of use building permit as per Section C.1.3.1.4 of the Ontario Building Code; and "Redevelopment" has a corresponding meaning;

"Development Agreement" means an agreement between the City and an Owner required as a condition of an approval under Sections 41, 51 or 53 of the *Planning Act* and Section 9 of the *Condominium Act* entered into prior to the date this By-law comes into effect;

"Development Charge" means any Development Charge that may be imposed pursuant to this By-law under the *Development Charges Act*;

"Dwelling unit" means a suite operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping, and sanitary facilities;

"Frozen Period" means for Site Plan and Zoning By-law applications, the period of time extending two (2) years from the Application Approval date.

"First storey" is defined as the storey that has its floor closest to grade and its underside of finished ceiling more than 1.8m above the average grade;

"Force majeure" means any act of God, any act of the Queen's enemies, wars, blockades, insurrections, riots, civil disturbances, landslides, lightening, earthquakes, storms, floods, washouts, fires, or explosions;

"Gross floor area" means the total floor space, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of the First storey and all storeys or part of storeys (including mezzanines) above the First storey;

"Growth Management Implementation Strategy" (GMIS) is the strategy adopted by Council that provides a framework for the timing and locating of future infrastructure works required to serve growth;

"Industrial Development" is a building used for:

- (a) manufacturing, producing, fabricating, assembling, compounding or processing of raw materials, goods, component parts or ingredients where the physical condition of such materials, goods, parts or components is altered to produce a finished or semi-finished tangible product, or the packaging, crating, bottling, of semi-processed goods or materials, but not including any of these activities where they primarily serve retail purposes to the general public;

- (b) storing or distributing something derived from the activities mentioned in a) above and for greater certainty, shall include the operation of a truck terminal, warehouse or depot and does not include self-storage warehousing for use by the general public or retail sales associated with the goods stored or distributed, or accessory storage of a Commercial Development;
- (c) research or development in connection with activities mentioned in (a) above;
- (d) retail sales of goods produced by activities mentioned in section a) at the site where the manufacturing, producing or processing from raw materials or semi-processed goods takes place and for greater certainty, includes the sale of goods or commodities to the general public where such sales are accessory or secondary to the Industrial use, and does not include the sale of goods or commodities to the general public through a warehouse club;
- (e) office or administrative purposes, if they are carried out:
 - i. with respect to the activity mentioned in section (a), and
 - ii. in or attached to the building or structure used for activities mentioned in section a) and
 - iii. for greater certainty, shall include an office building located on the same property as, and used solely to support, the activities mentioned in section a);
- (f) a business that stores and processes data for retrieval, license or sale to end users and are on lands zoned for Industrial uses; or
- (g) businesses that develop computer software or hardware for license or sale to end users that are on lands zoned for Industrial uses; and
- (h) Industrial Use shall have the corresponding meaning;

“Institutional Development” is a building used for or designed or intended for use by:

- (a) a government entity, not in the nature of trade;
- (b) an organized body, society or religious group promoting a public or non-profit purpose and shall include but not be limited to: public hospitals, schools, churches and other places of worship, cemetery or burial grounds, a college established under the *Ontario Colleges of Applied Arts and Technology Act*, a university as defined in the *Education Act*, other buildings used for not-for-profit purposes defined in, and exempt from taxation under, section 3 of the *Assessment Act*;
- (c) and Institutional Use shall have the corresponding meaning;

“Lawfully demolished” means a residential or Non-residential building that was demolished according to the provisions of a demolition permit or due to a Force majeure;

“Lawfully existing” with reference to a Dwelling unit means a Dwelling unit:

- (a) that is not prohibited by a By-law passed under section 34 of the *Planning Act* or a predecessor of that section; or
- (b) that is a legal non-conforming use; or
- (c) that is allowed by a minor variance authorized under section 45 of the *Planning Act* or a predecessor of that section;

“Long-term Care Home” means a place that is licensed as a long-term care home under the Act, and includes a municipal home, joint home or First Nations home approved under Part VIII of the *Long-Term Care Homes Act*;

“Mixed Use Development” means a Development, building or structure used, designed or intended for any combination of Residential, Commercial, Institutional or Industrial uses;

“Non-residential” means a Commercial, Institutional or Industrial use but excludes Agricultural use;

“Non-profit Housing Development” means development of a building or structure intended for use as a residential premises by:

- (a) a corporation without share capital to which the *Corporations Act* applies, that is in good standing under that Act and whose primary object is to provide housing;
- (b) a corporation without share capital to which the *Canada Not-for-profit Corporations Act* applies, that is in good standing under that Act and whose primary object is to provide housing; or
- (c) a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*;

“Occupied” means the earlier of when occupation of a building or part thereof is authorized by a permit under the *Building Code Act* or occupation has occurred for the use or intended use of a building or part thereof to shelter animals, persons or property;

“Official Plan” means the in-force and effect policies of either the 1989 City of London Official Plan or the London Plan, as may be amended from time to time;

"Owner" means the registered Owner of the property and includes the authorized agent in lawful control of the property;

"Parking structure" means an attached or detached building or structure or part thereof,

- (a) that is used principally for the purpose, whether or not for profit, of providing parking space to the general public for a fee; or
- (b) that provides parking space in connection with the use for Residential, Commercial, Industrial or Institutional purposes or any combination thereof of any attached or detached building or structure or part thereof;

“Rental Housing Development” means development of a building or structure with four or more dwelling units all of which are intended for use as rented residential premises;

“Reserve funds” means the reserve funds, new and continued, under section 22 of this By-law;

“Retirement Home” means a residential complex or part of the residential complex:

- (a) that is occupied primarily by persons who are 65 years of age or older;
- (b) that is occupied or intended to be occupied by at least the prescribed number of persons who are not related to the operator of the home under the *Retirement Homes Act* and accompanying regulations, and
- (c) where the operator of the home makes at least two care services available, directly or indirectly, to the residents as provided for under the *Retirement Homes Act*, but does not include,
- (d) premises or parts of premises that are governed by or funded under the *Homes for Special Care Act*, the *Long-Term Care Homes Act*, the *Ministry of Community and Social Services Act* or the *Private Hospitals Act*;
- (e) premises at which emergency hostel services are provided under the *Ontario Works Act*, or
- (f) the other premises that are prescribed under the *Retirement Homes Act* and accompanying regulations;

“Rowhousing” means a building divided vertically into three or more attached Dwelling units by common walls;

"Semi-detached dwelling" means a building which contains two single Dwelling units which are attached vertically by a common wall;

"Single detached dwelling" means a residential building consisting of one Dwelling unit and not attached to another building or structure;

“Single Source” means that there is more than one source of supply in the open market, but only one source is recommended due to predetermined and approved specifications;

“**Source of Financing**” means a schedule (or report) issued by the City’s Finance Division outlining the source of funding for capital work triggered by Development;

“**Statistics Canada Index**” means the Statistics Canada Non-residential Building Construction Price Index (Toronto) table number 18-10-0135-02 as amended from time to time;

“**Temporary garden suite**” means a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential Dwelling structure;

“**Urban Growth Area (UGA)**” means the Urban Growth Area existing from time to time as identified in the City's Official Plan as approved and identified on Schedule 3;

“**Waste Diversion**” means services related to waste management but not including (i) landfill sites and services and (ii) facilities and services for the incineration of waste;

“**Wastewater**” means sanitary sewage including human, commercial and industrial waste, septic waste and greywater and such other matter or substances as is specified by regulations made under the *Ontario Water Resources Act* but does not include Stormwater; and

“**Work Plan**” is a document prepared by an engineering consultant that outlines the various tasks related to an engineering design. The document will outline the associated construction cost estimate for each task and will serve as an upset cost limit for the engineering design assignment.

PART II RATES AND CALCULATIONS

2. Owner to Pay Development Charge

The Owner of any land in the City of London who develops or redevelops the land or any building or structure thereon shall pay Development Charges to the City in accordance with the terms of this by-law.

3. Mixed Use Development

- (1) Where the Development of land, or any building or structure thereon is a Mixed Use Development, the Chief Building Official (or designate) shall determine the total Development Charge payable according to the sum of the Development Charges payable on the individual uses.
- (2) The Development Charge on an Accessory use to the principal use of a building shall be determined in accordance with the charges applicable to the principal use, unless the Accessory use is specifically exempted elsewhere in this By-law.

4. Calculation of Development Charge

For all development types, unless application is made under a Site Plan or a Zoning By-law Amendment, a Development Charge under section 2 shall be calculated on the date a building permit is issued under the *Building Code Act*.

For development types under a Site Plan Application or a Zoning By-law Amendment, the Development Charge is calculated at the day a Complete Application is received. If a building permit has not been issued within the Frozen Period, the Development Charge shall be calculated on the date a building permit is issued under the *Building Code Act*.

5. Time of Payment – Non-Deferred Developments

For all non-deferred development types, a Development Charge under section 2 shall be paid on the date a building permit is issued under the *Building Code Act*.

5.1 Interest

Interest shall apply to the Development Charge for non-deferred Site Plan Applications or Zoning By-law Amendments, where a building permit has been issued within the

Frozen Period. Interest shall accrue from the date a Complete Application is received and shall be paid on the date a building permit is issued under the *Building Code Act*.

The interest rate shall be calculated based on the Council approved Development Charge Interest Rate Policy, as amended from time to time.

6. Time of Payment – Deferred Development Types

For Deferred Development Types defined under Non-profit Housing subsection (a), a Development Charge is payable in annual instalments beginning on the date the building is first Occupied and continuing on the following twenty (20) anniversaries of that date.

For Deferred Development Types defined under Rental Housing Development subsection (b) and institutional subsection (c), a Development Charge is payable in annual instalments beginning on the date the building is first Occupied and continuing on the following five (5) anniversaries of that date.

6.1 Notice of Occupation

An Owner required to pay a Development Charge that is eligible as a Deferred Development Type, shall notify the Chief Building Official within five (5) business days of the building or part thereof first being Occupied.

6.2 Failure to Provide Notice

For Deferred Development Types, if an Owner fails to provide notice of occupation within five (5) business days, the Development Charge, including any applicable interest, shall be paid immediately.

6.3 Interest

For Deferred Development Types, interest shall accrue on the Development Charge starting from the date the Development Charge is calculated until the final payment is received. Interest shall be paid on each annual instalment until the final payment is received.

The interest rate shall be calculated based on the Council approved Development Charge Interest Rate Policy.

6.4 Unpaid Amounts Added to Taxes

For Deferred Development Types, any unpaid amounts, including interest, shall be added to the Owner's property taxes.

6.5 Change in Development Type

If any part of a Deferred Development Type is changed so that it no longer meets the criteria for deferred payment instalments, the remaining Development Charge, including interest, shall be paid immediately.

7. City Hall Year-end Closure – Deemed Receipt of Application

Where a building permit application is submitted to the Chief Building Official after the close of business prior to the holiday break being the period generally between December 24 and December 31 each year, then the application shall be deemed to be received in the new year.

8. Development Charge Rates Commencing January 1, 2021

On and after January 1, 2021, Development Charges designated in Schedule 1 shall be levied for the uses of land, buildings or structures as defined in section 1 at the total of the rates shown.

9. Development Charge Rates – January 1, 2022 and beyond

- (1) The development charge rates set out in Schedule 1 shall be adjusted without amendment to this By-law commencing on the first day of January, 2022 and annually thereafter on the first day of January in accordance with the most recent twelve month change in the Statistics Canada Index.
- (2) Every rate derived by adjustment under subsection (1) shall, in the case of residential rates, be correct to the nearest dollar, fifty cents being raised to the

next higher dollar, and, in the case of Non-residential rates, be correct to the nearest cent.

10. Allocation of Charge To Reserve Funds

Each Development Charge for City Services received by the City shall be paid into a Reserve fund for each component identified in Schedule 1 and shall be apportioned according to the proportion that each service component of the rate is of the total rate.

11. Additional Units In Enlarged or Converted Residential Building

Where an existing residential building is enlarged or converted for the purpose of residential use and not exempt under Section 35, the number of Dwelling units for which a Development Charge is payable shall be calculated using the following formula:

$$A - B = C$$

Where:

- A = the total number of Dwelling units actually existing after the enlargement or conversion;
- B = the number of Dwelling units Lawfully existing immediately before the enlargement or conversion; and
- C = the number of Dwelling units for which a Development Charge is payable, a negative difference being converted to zero.

Where a service is not provided (e.g. water or Wastewater) to a residential building or structure prior to its enlargement or conversion, that component of the Development Charge shall be excluded from the rate applied in item B above.

12. Residential Building Converted To Non-Residential Use

Where, in conjunction with a change from a residential use to a Non-residential use, an existing building or structure is enlarged or wholly or partially converted, the Development Charge which is payable shall be calculated using the following formula:

$$A - B = C$$

Where:

- A = the Development Charge that would be payable under this By-law for the Non-residential use in respect of the area involved in the enlargement or conversion;
- B = the Development Charge that would be payable in respect of the Lawfully existing Dwelling units eliminated by the enlargement, conversion or replacement calculated at the same time as item A above; and
- C = the Development Charge payable in respect of the area involved in the enlargement or conversion, a negative difference being converted to zero.

Where a service is not provided (e.g. water or Wastewater) to a residential building or structure prior to its conversion, that component of the Development Charge shall be excluded from the rate applied in item B above.

13. Non-Residential Building Converted To Residential Use

Where, in conjunction with a change to a residential use from a Non-residential use, an existing building or structure is enlarged or wholly or partially converted, the Development Charge which is payable shall be calculated using the following formula:

$$A - B = C$$

Where:

- A = the Development Charge that would be payable under this By-law in respect of the Dwelling units comprising the Gross floor area existing after the enlargement or conversion;
- B = the Development Charge that would be payable in respect of the previous Lawfully existing Non-residential Gross floor area involved in the enlargement, conversion or replacement calculated at the same time as

item A above; and

C = the Development Charge payable in respect of the successor residential units, a negative number being converted to zero.

Where a service is not provided (e.g. water or Wastewater) to a Non-residential building or structure prior to its conversion, that component of the Development Charge shall be excluded from the rate applied in item B above.

14. Conversion From One Form Of Non-Residential Use To Another Form Of Non Residential Use

Where in conjunction with a change from one form of Lawfully existing Non-residential use to another form of Non-residential use, a Lawfully existing building or structure is wholly or partially converted, no Development Charge will be imposed on the existing Non-residential Gross floor area so converted. However, if there is a conversion plus expansion of a Non-residential use to another form of Non-residential use, the applicable Development Charges would be imposed on the expansion.

Notwithstanding the above, where the building permit for the Non-residential building for which the use is being converted was issued within the past ten (10) years and where the applicant for that permit was not required to pay a Development Charge by virtue of a tax supported program, discount or exemption that reduced or eliminated Development Charges otherwise payable at the time of the permit, the Owner shall pay the portion funded by a taxpayer supported program, discount or exemption at the current rate at the time of issuance of the building permit, and the same shall be returned to the original City funding source (i.e. Reserve fund or General fund) by the City Treasurer, in cooperation with the Chief Building Official.

15. Replacement Of Demolished Or Destroyed Non-Residential Premises or Dwelling unit(s) with Dwelling units

- (1) In this section and section 16, "specified period" means the period of time that is up to ten (10) years prior to the application for a building permit for a replacement building, except in the Downtown and Old East Village Areas identified on Schedule 2, in which case, the "specified period" means the period of time that is up to twenty (20) years prior to the application for a building permit for replacement Dwelling units.
- (2) Where a Lawfully existing Non-residential premises ("former premises") or Dwelling unit, is destroyed by a Force majeure or accidental fire, or is Lawfully demolished or removed, the Development Charge payable in respect of a replacement Dwelling unit that is to be constructed, erected or placed on the site of the former Non-residential premises or Dwelling unit shall be calculated using the following formula, so long as the former Non-residential premises or Dwelling unit was destroyed, demolished or removed during the specified period:

$$A - B = C$$

Where:

A = the Development Charge that, were it not for this section, would otherwise be payable under this By-law in respect of the replacement Dwelling unit(s);

B = the Development Charge that would be payable in respect of the Non-residential premises or former Dwelling unit(s) (by using the applicable rate for the particular type of unit destroyed, demolished or removed) if that Non-residential premises or Dwelling unit(s) were currently being constructed, erected or placed for the first time calculated at the same time as item A above; and

C = the Development Charge payable in respect of the successor building or Dwelling unit, a negative number being converted to zero.

Where a service is not provided (e.g. water or Wastewater) to a Non-residential premises or Dwelling units prior to its demolition, that component of the Development Charge shall be excluded from the rate applied in item B above.

16. Replacement of Demolished or Destroyed Non-Residential Premises or Dwelling unit(s) with Non- Residential Premises

Where Non-residential premises (“former premises”) or Dwelling units are destroyed by a Force majeure or accidental fire, or are Lawfully demolished or removed, the Development Charge payable in respect of replacement Non-residential premises that are constructed, erected or placed on the site of the former premises shall be calculated using the following formula so long as the former premises were destroyed, demolished or removed during the specified period:

$$A - B = C$$

Where:

- A = the Development Charge that, were it not for this section, would otherwise be payable under this By-law in respect of the Gross floor area of the replacement Non-residential premises;
- B = the Development Charge that would be payable in respect of the former Non-residential premises or former Dwelling units (by using the applicable rate for the particular type of Non-residential premises or Dwelling units destroyed, demolished or removed), as the case may be, as if those premises or Dwelling units were currently being constructed, erected or placed for the first time calculated at the same time as item A above; and
- C = the Development Charge payable in respect of the successor premises, a negative number being converted to zero.

Where a service is not provided (e.g. water or Wastewater) to a Non-residential premises or Dwelling units prior to its demolition, that component of the Development Charge shall be excluded from the rate applied in item B above.

17. Phased Building Replacement – prohibition against duplicate use of demolition credit

For greater clarity, the calculation of Redevelopment credits provided in sections 15 and 16 of this By-law (item B in the formulas in those sections) can only be applied once to the construction of replacement buildings on the site of a former Lawfully demolished or replaced unit or Non-residential premises. For the purposes of sections 15 and 16 above, when the first building that replaces a demolished building (the value B exceeds A) the excess can be referred to as “surplus Redevelopment credit.” In the event of subsequent building construction on the same site of a former Lawfully demolished or replaced unit or Non-residential premises, only the value of any surplus Redevelopment credits may be used as item B in the formula derived from the calculation of Development Charges under sections 15 or 16 of this By-law. This may be repeated only until the entire value of the surplus demolition credit has been used up. This provision limits the total demolition credit applied to all charges to the value of the demolition credit on the original building demolished. All of the above is also subject to the restriction that any replacement buildings on the site be built within the specified period.

18. Building Replacement Prior to Demolition

Where a building or structure (“former premises”) is replaced by another building or structure on the same site prior to demolition of the former premises, the Owner of the building or structure who has paid a Development Charge on the construction of the replacement building may submit a request to the Chief Building Official for a refund from the Development Charge Reserve funds for all or part of the Development Charge paid under this By-law, or a predecessor By-law. The refund shall be granted so long as:

- (1) the former premises is Lawfully demolished or removed from the land within thirty six (36) months from the date the interior final inspection process has been closed by the Chief Building Official or an occupancy permit has been issued where applicable for the replacement building or structure; and
- (2) the replacement building uses the existing municipal services which serviced the former premises.

The refund shall be calculated by determining the Development Charge that was payable at the same time as the rate calculated for the replacement building. The rate applied shall be based on the building being demolished.

19. Demolition or Removal of Temporary Buildings

Where a building or structure is demolished or removed in its entirety from the land on which it is located within twenty-four months (24) from the date of issuance of the building permit for the construction, erection or placing of the building or structure at such location, the Owner of the building or structure may submit a request to the Chief Building Official for refund from the Reserve funds, of the amount paid at the issuance of the building permit toward all or part of the Development Charge paid under section 2 of this By-law or a predecessor of that section.

20. Revocation or Cancellation of Building Permit

Where, upon the application for a building permit or the issuance of a building permit, an amount is paid toward all or part of the Development Charge payable under section 2 of this By-law or a predecessor of that section, that amount is to be refunded in the event that the application for the building permit is abandoned or the building permit is revoked or surrendered.

PART III RESERVE FUNDS

21. Purpose of the Reserve Funds

The money in the Reserve funds shall be used by the City toward the growth-related portion of capital costs incurred in providing the services listed in Schedule 1 as described in section 2.

22. Reserve Funds – New and Continued

- (1) Reserve funds established by By-law C.P.-1535-144, for Fire, Police, Transit, Roads and Related Services, Wastewater, Stormwater, Water Distribution, Waste Diversion, Library, and Parks & Recreation for the City Service categories shown in Schedule 1, are hereby continued;
- (2) The balances and commitments of the reserve fund established by By-law C.P.-1535-144 for Operation Centres shall be transferred to the Roads and Related Services City Service Reserve Fund upon the termination of the predecessor Development Charge By-law;
- (3) The following actions be taken with respect to the reserve fund established by By-law C.P.-1535-144 for Corporate Growth Studies upon the termination of the predecessor Development Charge By-law:
 - (a) The commitments directly attributable to a service component contained in Schedule 1 shall be transferred to the respective City Service Reserve Fund;
 - (b) The commitments for Planning and Growth Management Studies and Finance and Corporate Service Studies that are not directly attributable to a service component, but are required to support growth shall be transferred to the Roads and Related Services City Service Reserve Fund; and
 - (c) The balances shall be apportioned according to the proportion of the commitments transferred in subsections (a) and (b).

23. Composition of Reserve Funds

- (1) Money deposited into the ten Reserve funds referred to in section 22 may include,
 - (a) the Development Charge portion relating to each service component mentioned in Schedule 1 of this By-law; and

(b) interest earnings derived through the investment of the money deposited in the Fund as part of the City's cash management program.

24. Reserve Funds for the Purpose of Funding Development Charge Exemptions

- (1) The City Treasurer is authorized to establish such Reserve funds as are deemed necessary for the purpose of financing an exemption under this By-law.
- (2) The Chief Building Official shall, in respect of every building permit issued for any Development Charge otherwise payable but for which an exemption is permitted under this By-law, provide such information from time to time as may be required by the City Treasurer regarding the Development Charges that would have been paid were it not for the exemption.
- (3) The City Treasurer is authorized to transfer from time to time from the Reserve funds mentioned in subsection (1) to the Reserve funds established and continued under section 22 an amount in respect of the Development Charges mentioned in subsection (2) and, in so doing, the City Treasurer shall have regard to the amounts and proportions referred to in section 10 of this By-law.
- (4) The City Treasurer shall provide in the annual estimates of the City such sums as may be considered necessary to make the transfers mentioned in subsection (3), noting that the contributions for any single Development shall be financed over a period of not more than ten years.
- (5) Money deposited in the Reserve fund or funds mentioned in subsection (1) may include,
 - (a) the amount provided in the annual estimates mentioned in subsection (4); and
 - (b) interest earnings derived through the investment of the money deposited in the fund or funds as part of the City's cash management program.
- (6) The money withdrawn from the Reserve funds mentioned in subsection (1) shall be used only for the purpose of transfers to the Reserve funds, under subsection (3).

25. Claims

Re-imbusement for Owner constructed works shall be in accordance with the provisions of Schedule 4. No payment shall be made from the City Services Reserve Fund and no credit under section 38 of the *Development Charges Act* shall be given except as provided for in an agreement entered into pursuant to the *Planning Act* or the *Development Charges Act*.

PART IV COMPLAINTS

26. Corporate Services Committee to Hear Complaints

The Corporate Services Committee is hereby appointed pursuant to section 23.1 of the *Municipal Act* to act in the place and stead of Council to deal with complaints under section 20 of the *Development Charges Act*.

27. Grounds of Complaint

An Owner may complain in writing to the Corporate Services Committee (with a copy provided to the Chief Building Official) upon such grounds as are established by and in accordance with the *Development Charges Act* in respect of the Development Charge imposed by the City:

- (1) that the amount of the Development Charge was incorrectly determined;
- (2) 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; or
- (3) that there was an error in the application of this By-law.

28. When Complaint to be Made

A complaint may not be made under section 27 later than ninety (90) days after the day the Development Charge, or any part of it, is payable.

29. Particulars of Complaint

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, which reasons shall be consistent with sections 27.

30. Hearing

The Corporate Services Committee shall hold a hearing into the complaint and shall give the complainant an opportunity to make representations at the hearing.

31. Notice of Hearing

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

32. Determination by Council

After hearing the evidence and submissions of the complainant, the Corporate Services Committee shall as soon as practicable make a recommendation to Council on the merits of the complaint and Council may,

- (1) dismiss the complaint; or
- (2) rectify any incorrect determination or error that was the subject of the complaint.

33. Notice of Decision

The Clerk of the municipality 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.

**PART V
EXEMPTIONS AND EXCEPTIONS**

34. City And School Boards Exempt

- (1) In accordance with the *Development Charges Act*, no land is exempt from a Development Charge by reason only that it is exempt from taxation under section 3 of the *Assessment Act*, with the following exceptions:
 - (a) land owned by and used for the purposes of City; and
 - (b) land owned by and used for the purposes of a board as defined in subsection 1(1) of the *Education Act*.
- (2) For the purpose of subsection (1)(a), land owned by and used for the purposes of the City shall include lands owned by the City and used for the purposes of:
 - (a) The London Public Library Board;
 - (b) The Covent Garden Market Corporation;
 - (c) The London Convention Center Corporation;
 - (d) The London Transit Commission; or
 - (e) London Police Service.

35. Certain Developments Exempt

No Development Charge under section 2 is payable where the Development or Redevelopment;

- (1) is an enlargement of an existing Dwelling unit;
- (2) 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 Dwelling unit already in the building;
- (3) creates one additional Dwelling unit in a Semi-detached or Rowhousing Dwelling if the Gross floor area of the additional Dwelling unit does not exceed the Gross floor area of the Dwelling unit already in the building;
- (4) creates additional Dwelling unit(s) in an existing Rental Housing Development containing four or more Dwelling units up to a maximum of the greater of one additional unit and 1% of the existing units in the building;
- (5) creates one additional Dwelling unit in any existing residential building other than a Single detached dwelling, a Semi-detached dwelling, a Rowhousing Dwelling or a Rental Housing Development if the Gross floor area of the additional Dwelling unit does not exceed the Gross floor area of the smallest Dwelling unit already in the building;
- (6) creates one Dwelling unit contained within an accessory building per parcel if the Gross floor area of the additional Dwelling unit does not exceed the Gross floor area of the primary Dwelling unit located on the parcel;
- (7) creates one additional Dwelling unit in a proposed new residential building that would not be attached to other buildings and that is permitted to contain a second Dwelling unit, that being either of the two Dwelling units, if the units have the same Gross floor area or the smaller of the Dwelling units. The proposed new detached dwelling must only contain two Dwelling units and must be located on a parcel of land on which no other detached dwelling, Semi-detached dwelling or Rowhousing Dwelling would be located;
- (8) creates one additional Semi-detached or Rowhousing Dwelling unit in a proposed new residential building that would have one or two vertical walls, but no other parts attached to other buildings and that is permitted to contain a second Dwelling unit, that being either of the two Dwelling units, if the units have the same Gross floor area or the smaller of the Dwelling units. The proposed new Semi-detached or Rowhousing Dwelling must only contain two Dwelling units and must be located on a parcel of land on which no other detached dwelling, Semi-detached dwelling or Rowhousing Dwelling would be located;
- (9) creates one new residential building that would be ancillary to a proposed new detached, Semi-detached or Rowhousing Dwelling unit and is permitted to contain a single Dwelling unit. The proposed new detached, Semi-detached or Rowhousing Dwelling to which the proposed new residential building would be ancillary shall only contain one Dwelling unit. The Gross floor area of the Dwelling unit in the proposed new residential building shall be equal to or less than the Gross floor area of the detached, Semi-detached or Rowhousing Dwelling to which the proposed new residential building is ancillary;
- (10) is a parking building or structure;
- (11) is a bona fide Non-residential farm building used for an Agricultural use;
- (12) is a structure that does not have municipally provided water and Wastewater facilities and that is intended for seasonal use only; or
- (13) is a 'Temporary garden suite' installed in accordance with the provisions of the *Planning Act*, as amended.

36. Industrial Use Exemptions

In accordance with the *Development Charges Act*, and except as exempted under part (4) below, if a Development includes the enlargement of the Gross floor area of an existing Industrial building, the amount of the Development Charge that is payable in respect of the enlargement is determined in accordance with this section.

- (1) For the purpose of this section, the term "existing Industrial building" shall have the same meaning as that term has in the Regulation made pursuant to the *Development Charges Act*.

- (2) If the Gross floor area of an existing Industrial building is enlarged by 50 per cent or less, the amount of the Development Charge in respect of the enlargement is zero.
- (3) If the Gross floor area of an existing Industrial building is enlarged by more than 50 per cent, the amount of the Development Charge in respect of the enlargement is calculated by multiplying the amount by which the enlargement exceeds 50 per cent of the Gross floor area before the enlargement by the Development Charge rate calculated in accordance with this By-law.
- (4) For greater certainty in applying the exemption in this section, the Gross floor area of an existing Industrial building is enlarged where there is a bona fide increase in the size of the existing Industrial building, the enlarged area is attached to the existing Industrial building, there is a direct means of ingress and egress from the existing Industrial building to and from the enlarged area for persons, goods and equipment and the existing Industrial building and the enlarged area are used for or in connection with an industrial purpose as set out in Regulation made pursuant to the *Development Charges Act*. Without limiting the generality of the foregoing, the exemption in this section shall not apply where the enlarged area 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 parking facility.
- (5) The exemption for an existing Industrial building provided by this section shall be applied up to a maximum of 50 percent 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 or any previous Development Charges By-law of the City made pursuant to the *Development Charges Act* or its predecessor legislation.

37. City Services Reserve Fund – Institutional Discount

Development Charges calculated in accordance with this By-law, shall be reduced by 50% with respect to the following:

- (1) lands, buildings or structures used or to be used for a public hospital as defined under the *Public Hospitals Act*, and used for the purposes set out in the Act;
- (2) lands, buildings or structures that are exempt from taxation under the enabling legislation of a college established under the *Ontario Colleges of Applied Arts and Technology Act* or a university as defined in the *Education Act*, and used for the purposes set out under such enabling legislation;
- (3) lands, buildings or structures used or to be used for a place of worship or for the purposes of a cemetery or burial ground; and
- (4) other land, buildings or structures used for not-for-profit purposes defined in, and exempt from taxation under, section 3 of the *Assessment Act*.

38. Development Outside Urban Growth Area

Where a Development occurs outside the Urban Growth Area as shown in Schedule 3 to this By-law, the Development Charge payable under section 2 shall exclude the following rate service components identified in Schedule 1: Wastewater, Water Distribution and Stormwater.

PART VI MISCELLANEOUS

39. Administration of By-law

- (1) The administration of this By-law, except as otherwise provided in this section, is assigned to the Chief Building Official.
- (2) The administration of Part III is assigned to the City Treasurer.

40. Former By-laws Repealed

By-law C.P.-1535-144 of the Corporation of the City of London, respecting Development Charges is hereby repealed effective January 1, 2021.

41. Commencement

This By-law comes into force on January 1, 2021 or, in the event of an appeal pursuant to the *Development Charges Act*, in accordance with that Act.

PASSED in Open Council on October 27, 2020.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – October 27, 2020
Second Reading – October 27, 2020
Third Reading – October 27, 2020