



The Regional Municipality of Durham

GO TRANSIT DEVELOPMENT CHARGES BY-LAW

BY-LAW NUMBER 86-2001

Office Consolidation – July 2013

As Amended by By-laws:

<u>By-law Number:</u>	<u>Date Passed:</u>
62-2011	November 23, 2011
24-2013	May 15, 2013

BY-LAW NUMBER 86-2001

OF

THE REGIONAL MUNICIPALITY OF DURHAM

being a by-law regarding development charges for the GO Transit Service

WHEREAS section 2(1) of the *Development Charges Act, 1997*, provides that 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 arising from development of the area to which the by-law applies if the development requires one or more of the approvals identified in section 2(2) of the *Development Charges Act, 1997*;

AND WHEREAS the Council of The Regional Municipality of Durham has given notice and held a public meeting on October 10, 2001, in accordance with section 12(1) of the *Development Charges Act, 1997*;

AND WHEREAS the Council of The Regional Municipality of Durham has permitted any person who attended the public meeting to make representations in respect of the proposed development charges;

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF DURHAM HEREBY ENACTS AS FOLLOWS:

PART I

INTERPRETATION

Definitions

1. In this By-law,
 - (a) "Act" means the *Development Charges Act, 1997*, or a successor statute;
 - (b) "apartment building" means a residential building, or the residential portion of a mixed-use building, other than a triplex, semi-detached duplex, semi-detached triplex, townhouse or stacked townhouse, consisting of more than 3 dwelling units, which dwelling units have a common entrance to grade;
 - (c) "apartment" means a dwelling unit in an apartment building;

- (d) "area municipality" means a city, town or township in the Region;
- (e) "bedroom" means any room used, or designed or intended for use, as sleeping quarters;
- (f) "Council" means the Council of the Regional Municipality of Durham;
- (g) "development" includes redevelopment;
- (h) "development charges" means charges imposed pursuant to this by-law in accordance with the Act;
- (i) "duplex" means a building comprising, by horizontal division, two dwelling units;
(By-law #24-2013)
- (j) "dwelling unit" means a room or suite of rooms used, or designed or intended for use by one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;
- (k) "garden suite" means a one-unit detached, temporary residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable;
- (l) "gross floor area" means the total floor area, 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 all floors above the average level of finished ground adjoining the building at its exterior walls;
- (m) "local board" means a local board as defined in the *Municipal Affairs Act*, other than a board defined in subsection 1 (1) of the *Education Act*;
- (n) "medium density multiples" includes plexes, townhouses, stacked townhouses and all other residential uses that are not included in the definition of "apartment building", "apartment", "garden suites", "mobile homes", "retirement residence units", "single detached", "single detached dwelling" or "semi-detached dwelling";
(By-law #24-2013)

- (o) "mixed-use" means land, buildings or structures used, or designed or intended for use, for a combination of non-residential and residential uses;
- (p) "mobile home" means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent or temporary residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed;
- (q) "non-residential use" means lands, buildings or structures or portions thereof used, or designed or intended for use for other than residential use;
- (r) "plex" means a duplex, a semi-detached duplex, a triplex or a semi-detached triplex;
- (s) "Region" means the Regional Municipality of Durham;
- (t) "residential use" means lands, buildings or structures used, or designed or intended for use as a home or residence of one or more individuals, and shall include, but is not limited to, a single detached dwelling, a semi-detached dwelling, a townhouse, a plex, a stacked townhouse, an apartment building, a mobile home, a retirement residence and a residential dwelling unit accessory to a non-residential use;
(By-law #62-2011)
- (t.1) "retirement residence" means a residential building or the residential portion of a mixed-use building which provides accommodation for persons of retirement age, where common facilities for the preparation and consumption of food are provided for the residents of the building, and where each unit or living accommodation has separate sanitary facilities, less than full culinary facilities and a separate entrance from a common hall;
(By-law #62-2011)
- (t.2) "retirement residence unit" means a unit within a retirement residence;
(By-law #62-2011)
- (u) "semi-detached duplex" means one of a pair of attached duplexes, each duplex divided vertically from the other by a party wall;
- (v) "semi-detached dwelling" means a building divided vertically (above or below ground) into and comprising 2 dwelling units;
(By-law #24-2013)

- (w) "semi-detached triplex" means one of a pair of triplexes divided vertically one from the other by a party wall;
 - (x) "services" means the service designated in section 7 of this by-law;
 - (y) "single detached dwelling" and "single detached" means a building comprising 1 dwelling unit;
 - (z) "stacked townhouse" means a building, other than a plex, townhouse or apartment building, 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;
 - (aa) "townhouse" means a building, other than a plex, stacked townhouse or apartment building, containing at least 3 dwelling units, each dwelling unit separated vertically from the other by a party wall and each dwelling unit having a separate entrance to grade;
 - (bb) "triplex" means a building comprising 3 dwelling units.
(By-law #24-2013)
2. In this by-law where reference is made to a statute or a section of a statute such reference is deemed to be a reference to any successor statute or section.

PART II

APPLICATION OF BY-LAW – RULES

Circumstances Where Development Charges are Payable

3. Development charges shall be payable in the amounts set out in section 8 of this by-law where:
- (a) the lands are located in the area described in subsection 4(1); and
 - (b) the development of the lands requires any of the approvals set out in subsection 5(1).

Area to Which By-law Applies

4. (1) Subject to subsection 4(2), this by-law applies to all lands in the Region.

4. (2) This by-law shall not apply to lands that are owned by and used for the purposes of:
- (a) the Region or a local board thereof;
 - (b) a board as defined in subsection 1(1) of the *Education Act*, and
 - (c) an area municipality or a local board thereof in the Region.

Approvals for Development

5. (1) Development charges shall be imposed upon all lands, buildings or structures that are developed for residential uses if the development requires,
- (a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act*,
 - (b) the approval of a minor variance under section 45 of the *Planning Act*,
 - (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - (d) the approval of a plan of subdivision under section 51 of the *Planning Act*,
 - (e) a consent under section 53 of the *Planning Act*,
 - (f) the approval of a description under section 9 of the *Condominium Act, 1998*, or
(By-law #24-2013)
 - (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.
5. (2) Council has determined that the development of the land to which this by-law applies increases the need for the service designated in section 7.
6. (1) No more than one development charge for the service designated in section 7 shall be imposed on land to which this by-law applies even though two or more of the actions described in subsection 5(1) are required before the land can be developed.

6. (2) Notwithstanding subsection 6(1), if two or more of the actions described in subsection 5(1) occur at different times, additional development charges shall be imposed, if the subsequent action has the effect of increasing the need for the service.

Designation of Services

7. (1) The category of service for which development charges are imposed under this by-law is GO Transit.
7. (2) The components of the service designated in subsection 7(1) are described on Schedule "A".

Amount of Development Charges

Residential

8. The development charges in regard to GO Transit, described in Schedule "B" to this by-law, shall be imposed upon 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, upon the residential uses in the mixed use building or structure, according to the type of residential unit.

Exemptions

9. (1) In this section,
 - (a) "gross floor area" means the total floor area, 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 all floors above the average level of finished ground adjoining the building at its exterior walls;
 - (b) "other residential building" means a residential building not in another class of residential building described in this subsection.
 - (c) "semi-detached or row dwelling" means a residential building consisting of one dwelling unit having one or two vertical walls, but no other parts, attached to another structure;
 - (d) "single detached dwelling" means a residential building consisting of one dwelling unit and not attached to another structure.

9. (2) Subject to subsections 9(3) and 9(4), development charges shall not be imposed in respect to:
- (a) the issuance of a building permit not resulting in the creation of an additional dwelling unit;
 - (b) the enlargement of an existing dwelling unit;
 - (c) the creation of one or two additional dwelling units in an existing single detached dwelling;
 - (d) the creation of one additional dwelling unit in a semi-detached dwelling, a row dwelling, or any other residential building.
9. (3) Notwithstanding subsection 9(2)(c), development charges shall be imposed in accordance with section 8 if the total gross floor area of the additional one or two dwelling units in the existing single detached dwelling exceeds the gross floor area of the existing dwelling unit.
9. (4) Notwithstanding subsection 9(2)(d), development charges shall be imposed in accordance with section 8 if the additional dwelling unit has a gross floor area greater than:
- (a) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and
 - (b) in the case of any other residential building, the gross floor area of the smallest dwelling unit already contained in the residential building.

Garden Suite

- 10.(1) The development charges imposed upon a garden suite under section 8 shall be payable at the rate applicable to a one-bedroom apartment.
- 10.(2) The development charges paid in regard to a garden suite shall be refunded in full to the then current owner thereof, upon request, if the garden suite is demolished or removed within ten years of the issuance of the building permit relating thereto.
- 10.(3) The onus is on the applicant to produce evidence to the satisfaction of the Region, acting reasonably, which establishes that the applicant is entitled to the refund claimed under this section.

Mobile Home

- 11.(1) The development charges paid in regard to a mobile home shall be refunded in full to the then current owner thereof, upon request, if the mobile home is removed within ten years of the issuance of the building permit relating thereto.
- 11.(2) The onus is on the applicant to produce evidence to the satisfaction of the Region, acting reasonably, which establishes that the applicant is entitled to the refund claimed under this section.

Retirement Residence Unit

- 11.1(1) The development charges imposed on a retirement residence unit under section 8 shall be payable at the rate applicable to an apartment of one bedroom and smaller.

(By-law #62-2011)

Reduction of Development Charges For Redevelopment

- 12.(1) Despite any other provision of this by-law, where, as a result of the redevelopment of land, a building or structure existing on the land within ten years 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, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by, 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 section 8 of this by-law by the number, according to type, of dwelling units that have 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.
- 12.(2) The ten year period referred to in subsection 12(1) of this by-law shall be calculated from the date of the issuance of the first demolition permit.
- 12.(3) Development charges shall not be reduced under this section where the building or structure that is to be demolished or has been demolished or converted from one principal use to another was, or would have been, exempt from development charges under this by-law.

- 12.(4) The onus is on the applicant to produce evidence to the satisfaction of the Region, acting reasonably, which establishes that the applicant is entitled to the reduction in the payment of development charges claimed under this section.

(By-law #24-2013)

PART III

ADMINISTRATION

Timing of Payment of Development Charges

13. Development charges, adjusted in accordance with section 18 of this by-law to the date of payment, are payable in full on the date on which a building permit is issued with respect to each dwelling unit, building or structure.
14. Notwithstanding section 13, Council, from time to time, and at any time, may enter into agreements in accordance with section 27 of the Act which provide for all or any part of a development charge to be paid before it would otherwise be payable.

Transitional Exemption

15. Notwithstanding sections 13 and 22, where a valid and complete application for a building permit in regard to residential development has been submitted to and accepted by an area municipality on or before December 5, 2001, development charges under this by-law shall not be imposed against such development provided the building permit in respect of which the application was made is issued on or before February 4, 2002.

Payment by Services

16. Notwithstanding the payments required under section 13, the Region may, by agreement pursuant to section 38 of the Act, permit an owner to provide services in lieu of the payment of all or any portion of a development charge. The Region shall give the owner who performed the work a credit towards the development charge in accordance with the agreement subject to the requirements of the Act.

Front-Ending Agreements

17. Council, from time to time, and at any time, may enter into front-ending agreements in accordance with the Act.

Indexing

18. Development charges imposed pursuant to this by-law shall be adjusted annually, without amendment to this by-law, to a maximum of 3% per annum, as of the first day of July in accordance with the Statistics Canada Quarterly, *Construction Price Statistics*, catalogue number 62-007, for the most recently available annual period ending March 31. For greater certainty, the first such annual indexing shall be effective from July 1, 2002, and each first day of July thereafter.

Schedules

19. The following schedules to this by-law form an integral part thereof:
 - Schedule "A" - Components of the Service Designated in section 7
 - Schedule "B" - Residential Development Charges

Date By-law in Force

20. This by-law shall come into force on December 5, 2001.

Date By-law Expires

21. This by-law will expire on December 31, 2003, unless it is repealed at an earlier date by a subsequent by-law.

Application of By-law

22. For greater certainty, the development charges imposed under this by-law apply to any dwelling unit in respect of which a building permit is issued on or after December 6, 2001, including those dwelling units that are or will be located on lands which are subject to an agreement under section 51 or 53 of the *Planning Act* that was signed before this by-law came into force.
23. The development charges imposed under this by-law shall be in addition to the development charges imposed under By-law Number 50-99 and any other development charges by-laws that are applicable.

Registration

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

Severability

25. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction to be *ultra vires*, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all other provisions of this by-law shall remain in full force and effect.

Short Title

26. This By-law may be cited as the Regional Municipality of Durham GO Transit Development Charges By-law.

BY-LAW read and passed this 5th day of December 2001.

Original Signed by: R. Anderson, Regional Chair

Original Signed by: P.M. Madill, Regional Clerk

SCHEDULE "A"

**DESIGNATED REGIONAL SERVICE AND
SERVICE COMPONENTS THEREUNDER**

<u>CATEGORY OF REGIONAL SERVICES</u>	<u>SERVICE COMPONENTS</u>
<u>Residential</u> GO Transit	<ul style="list-style-type: none">• facilities and infrastructure• capital works studies• financing costs• rolling stock

SCHEDULE "B"

**RESIDENTIAL DEVELOPMENT CHARGES EFFECTIVE
DECEMBER 5, 2001 - \$ PER DWELLING TYPE**

SERVICE CATEGORY	SINGLE DETACHED AND SEMI- DETACHED	MEDIUM DENSITY MULTIPLES	APARTMENTS	
			TWO BEDROOMS & LARGER	ONE BEDROOM & SMALLER
GO Transit	\$498	\$441	\$313	\$185

NOTE: The development charges described above shall be adjusted annually pursuant to section 18 of this By-law.

(By-law #24-2013)