

**THE CORPORATION OF THE CITY OF WELLAND**

**BY-LAW NUMBER 2022 - 165**

**A BY-LAW TO ESTABLISH DEVELOPMENT CHARGES FOR THE CITY OF WELLAND FOR THE NORTHWEST SERVICE AREA IN ACCORDANCE WITH THE DEVELOPMENT CHARGES ACT 1997**

WHEREAS Section 2(1) of the Development Charges Act, 1997 enables a Municipality to impose Development Charges against land to pay for increased capital costs required because of increased needs for services arising from the development of the area to which the By-law applies.

AND WHEREAS the Council of the Corporation of the City of Welland has given notice and held the required Public Meeting in accordance with Section 12 of the Development Charges Act, 1997, on June 28, 2022.

AND WHEREAS the Council of the Corporation of the City of Welland has accepted a Report entitled 2022 Development Charges Background Study & By-Law (s), dated August 2, 2022 prepared by DFA Infrastructure International Inc.

AND WHEREAS the Council of the Corporation of the City of Welland deems it appropriate to establish Development Charges in the City of Welland because of increased needs for services arising from development of the area to which the By-law applies.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF WELLAND ENACTS AS FOLLOWS:

1. In this By-law,
  - (a) "Agricultural Use" means use or intended use for bona fide farming purposes:
    - i. including but not limited to:
      1. cultivation of crops, whether on open land or in greenhouses, including, but not limited, to fruit, vegetables, herbs, grains, field crops, sod, trees, shrubs, flowers and ornamental plants.
      2. raising of animals, including, but not limited, to cattle, horses, pigs, poultry, livestock, fish, and
      3. animal husbandry, dairying, equestrian activities, horticulture, fallowing, pasturing and market gardening
    - ii. but excluding:
      1. winery activities, retail sales activities, including, but not limited, to restaurants, banquet facilities, hospitality facilities and gift shops.
  - (b) "Apartment" means a DWELLING UNIT in an Apartment BUILDING or in a mixed-use BUILDING;
  - (c) "Apartment Building" means the whole of a BUILDING containing five (5) or more separate DWELLING UNITS and which has a single common entrance;
  - (d) "Charitable Institution" means a charitable, non-profit philanthropic corporation organized for the relief of the poor if the corporation is supported in part by public funds, and which is exempt from taxation as a charitable institution pursuant to the *Assessment Act*, R.S.O. 1990, c. A.31, as amended;

- (e) "Calculation Date" means the date on which the Chief Building Official for the City of Welland has issued the first building permit;
- (f) "Detached accessory dwelling unit" means a self-contained residential unit with kitchen and bathroom facilities within structures accessory to a single-detached dwelling, semi-detached dwelling, two-unit dwelling or townhouse dwelling;
- (g) "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 substantially increasing the size or usability thereof;
- (h) "Duplex" means the whole of a two-story BUILDING divided horizontally into two (2) separate above grade DWELLING UNITS, each of which has an independent entrance either directly or through a common vestibule;
- (i) "Dwelling" means a BUILDING, or part thereof, containing one (1) or more DWELLING UNITS, and includes retirement homes and lodges, and special care need units;
- (j) "Dwelling Unit" means a self-contained set of rooms, used as residential premises, located in a BUILDING, mobile home, park model home or trailer designed to be used year round as a building and which contains kitchen and bathroom facilities which are used only by the Occupants of the unit, is used as a single housekeeping unit in which no occupant has exclusive possession of any part of the unit, and which unit has a private entrance from outside the BUILDING or from a common hallway;
- (k) "Dwelling Room" means either:
  - i. each bedroom used, designed or intended for use by one or more persons living together in a lodging home, or student residence; or
  - ii. in the case of a special care/special need residence, each individual room or suite of rooms used, designed or intended for use by one or two persons with or without exclusive sanitary and/or culinary facilities.
- (l) "Fourplex" means the whole of a BUILDING, divided into four (4) separate DWELLING UNITS, each of which has an independent entrance either directly from the outside or through a common vestibule but does not include a TOWNHOUSE or STREET TOWNHOUSE;
- (m) "Freehold Triplex" means a TRIPLEX with each DWELLING UNIT on a separate LOT with frontage on a STREET;
- (n) "Gross Floor Area"(GFA) means the total floor area measured between the outside of exterior walls or virtual walls or between the outside of exterior walls or virtual walls and the centre line of party walls dividing the building from another building, of all floors and mezzanines above the average level of finished ground adjoining the building at its exterior walls;
- (o) "Garden Suite" means one-unit detached residential structures which contain bathroom and kitchen facilities, that are designed to be portable and are accessory to the existing residential structure;
- (p) "Group Home" means a dwelling for the accommodation of three to six residents, who require specialized personal care, supervised by agency staff and funded wholly or in part by any government or its agency and approved or supervised by the Province of Ontario under any act;

- (q) "Industrial Use" means land, buildings or structures used for or in connection with,
- i. manufacturing, producing, processing, storing or distributing something;
  - ii. research or development in connection with manufacturing, producing or processing something;
  - iii. retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place;
  - iv. self-storage buildings;
  - v. office or administrative purposes, if they are,
    1. carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
    2. are attached or accessory to the building or structure used for that manufacturing, producing, processing, storage or distribution
- (r) "Institutional " means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public and non-profit purpose and includes offices where such uses are accessory to an institutional use;
- (s) "Lodging Home" means a use in which the proprietor supplies for gain, lodging with or without meals to three or more persons other than the proprietor or members of his family but does not include a tourist establishment, hotel/motel, hospital or special care/special need residence, but does include a rooming house, boarding house and a student residence;
- (t) "Long Term Care Home" means a home, nursing home or home for the aged where the Ministry of Health and Long Term Care funds the care provided in such home and application for accommodation is made through a Community Care Access Centre;
- (u) "Low Density Multiple Dwelling" means a TRIPLEX DWELLING, a FREEHOLD TRIPLEX, a FOURPLEX DWELLING, a multiple attached DWELLING, a STREET TOWNHOUSE DWELLING or a TOWNHOUSE;
- (v) "Multiple attached dwelling" means a type of Low Density Multiple Dwelling with 2 or more dwelling units including a Two Unit Residential House, but not including an Apartment Building and other types of dwelling/uses defined as Low Density Multiple Dwelling;
- (w) "Municipality" is as defined in Section 1 of the Development Charges Act, 1997;
- (x) "Non-Profit" means a corporation or entity without share capital, carried on for not-for-profit purposes, without the purpose of commercial gain, as stated in it's charter/letters of patent;
- (y) "Non-Profit Residential Development" means housing units of any type or tenure produced by an incorporated non-profit provider who has an agreement with any level of Government or it's Agencies or Boards to provide affordable housing units, a) for a period of not less than 25 years, b) where the agreement specifies a recapture of equity equal to the applicable development charge for the purpose of ongoing affordability, or c) produced by a registered charity;

- (z) "Non-Residential Use" means a building or structure used exclusively for any purpose other than human habitation and ancillary purposes, but includes short stay rental use, but does not include agriculture use, institutional use or public use;
- (aa) "Place of Worship" means any building or part thereof that is owned by a church or religious organization that is exempt from taxation as a place of worship pursuant to the *Assessment Act*, R.S.O. 1990, c.A31, as amended;
- (bb) "Public Use" means use or intended use for public purposes by any Department, Branch, Agency or Local Board of the Government (Federal, Provincial or Municipal);
- (cc) "Residential Use" means use or intended use for human habitation and ancillary purposes, and includes such use related to agricultural use, but does not include such use related to institutional use, public use or short stay rental use;
- (dd) "Retirement Home or Lodge" a mixed-use building which provides accommodation primarily for retired persons or couples where each private bedroom or living accommodation has a separate private bathroom and separate entrance from a common hall but where common facilities for the preparation and consumption of food are provided, and common lounges, recreation rooms and medical care facilities may also be provided;
- (ee) "Semi-Detached Dwelling" means the whole of a BUILDING divided vertically into two single DWELLING UNITS by a solid common wall extending throughout the entire STRUCTURE, from the base of the foundation to the highest point of the roof line with each unit having an independent entrance directly from the outside;
- (ff) "Short Stay Rental Use" means use or intended use for human habitation on a temporary basis for profit (such as a hotel, motel, guest cabin and bed/breakfast), and does not include a dwelling room;
- (gg) "Single-Detached Dwelling" means a separate residential BUILDING containing only one DWELLING UNIT;
- (hh) "Special Care/Special Needs Residence" means a residence:
- i. containing two or more dwelling rooms, which rooms have common entrance from street level;
  - ii. where the occupants have the right to use in common with other occupants, halls, stairs, yards, common room and accessory buildings; and
  - iii. that is designed to accommodate persons with specific need, including but not limited to, Long Term Care Homes, independent living arrangements; and where support services, such as meal preparation, grocery shopping, laundry, housing, nursing, respite care and attending services are provided at various levels; and includes but is not limited to retirement homes or lodges, group homes and hospices;
- (ii) "Street Townhouse" means a TOWNHOUSE with each DWELLING UNIT on a separate LOT with FRONTAGE on a STREET;
- (jj) "Townhouse" means a BUILDING divided vertically into not less than four (4) and not more than eight (8) attached, non-communicating DWELLING UNITS;

- (kk) "Triplex" means the whole of a BUILDING, divided into three (3) separate DWELLING UNITS, each of which has an independent entrance whether directly from the outside or through a common vestibule;
  - (ll) "Two Unit Residential House" means a house containing two (2) dwelling units only, but does not include a Duplex or a Semi-detached dwelling;
2. This By-law shall apply to all lands within the Northwest Service Area as shown on Schedule "B".
  3. (1) Subject to Subsection (2), Development Charges shall apply and shall be calculated and collected in accordance with the provisions of this By-law on the lands where the development requires:
    - (a) the passing of a Zoning By-Law or of an Amendment to a Zoning By-law 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 Section 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 50 of the Condominium Act; or
    - (g) the issuing of a Building Permit under the Building Code Act in relation to a building or structure, except a permit for footings/foundations only, underground site servicing, or a sewage system.
  - (2) Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to:
    - (a) an enlargement to an existing dwelling unit;
    - (b) the creation of one or two additional dwelling units in an existing single detached dwelling, each of which contains a single dwelling unit, that are not attached to other buildings, as long as the total gross floor area of the additional dwelling unit or units are less than or equal to the gross floor area of the dwelling unit already in the building;
    - (c) the creation of one additional dwelling unit in an existing semi-detached dwelling or row dwelling, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings, as long as the total gross floor area of the additional dwelling unit is less than or equal to the gross floor area of the dwelling unit already in the building;
    - (d) the creation of additional dwelling units equal to the greater of one or 1% of the existing dwelling units in an existing residential rental building containing four or more dwelling units;
    - (e) the creation of one additional dwelling unit in any other existing residential building not identified in b) to d) above, as long as the additional unit is less than or equal to the gross floor area of the smallest dwelling unit already in the building;
    - (f) the creation of a second dwelling unit in prescribed classes of proposed new residential buildings, including structures ancillary to dwellings, subject to the following restrictions:

Item	Name of Class of Proposed Residential Buildings	Description of Class of Proposed New Residential Buildings	Restrictions
1.	Proposed new detached dwellings	Proposed new residential buildings that would not be attached to other buildings and that are 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  The proposed new detached dwelling must be located on a parcel of land on which no other detached dwelling, semi-detached dwelling or row dwelling would be located.
2.	Proposed new semi-detached dwellings or row dwellings	Proposed new residential buildings that would have one or two vertical walls, but no other parts, attached to other buildings and that are 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 dwelling or row dwelling must only contain two dwelling units.  The proposed new semi-detached dwelling or row dwelling must be located on a parcel of land on which no other detached dwelling, semi-detached dwelling or row dwelling would be located.
3.	Proposed new residential buildings that would be ancillary to a proposed new detached dwelling, semi-detached dwelling or row dwelling	Proposed new residential buildings that would be ancillary to a proposed new detached dwelling, semi-detached dwelling or row dwelling and that are permitted to contain a single dwelling unit.	The proposed new detached dwelling, semi-detached dwelling or row dwelling, to which the proposed new residential building would be ancillary, must only contain one dwelling unit  The gross floor area of the dwelling unit in the proposed new residential building must be equal to or less than the gross floor area of the detached dwelling, semi-detached dwelling or row dwelling to which the proposed new residential building is ancillary.

- (3) Notwithstanding section 3 (2) (b), development charges shall be imposed if the total gross floor area of the additional one or two units exceeds the gross floor area of the existing dwelling unit.
- (4) Notwithstanding section 3 (2) (d), development charges shall be imposed if the additional unit has a gross floor area greater than:
- i. in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and
  - ii. in the case of any other residential building, the gross floor area of the smallest dwelling unit contained in the residential building.
4. Development Charges against land to be developed as provided in this By-law shall be based upon the following services provided by the City of Welland, for which separate reserve funds should be maintained:
- (a) Water Services – Northwest Service Area
  - (b) Wastewater Services – Northwest Service Area
  - (c) Stormwater Services – Northwest Service Area
- ;
5. a) The amount of Development Charge in respect of a development shall be set out in Schedule "A".
- b) The development charges set out in Schedule "A" shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed-use building or structure, on the residential uses in the mixed-use building or structure, according to the type of residential unit, and calculated with respect to each of the services according to the type of residential use.
  - c) The development charges described in Schedule "A" to this by-law shall be imposed on non-residential uses of lands, buildings or structures, and, in the case of a mixed-use building or structure, on the non-residential uses in the mixed-use building or structure, and calculated with respect to each of the services according to the total floor area of the non-residential use.

- d) The Development Charge under this By-law shall be calculated using the rate effective on the CALCULATION DATE with respect to such development and shall be payable on the issuance of the first Building Permit with respect to such development.
6. a) Notwithstanding section 5 (d), development charges for rental housing and institutional developments are due and payable in 6 installments commencing with the first installment payable on the date of occupancy, and each subsequent installment, including interest as provided in the City Council approved development charge interest policy, as may be revised from time to time.
- b) Notwithstanding section 5 (d), development charges for non-profit housing developments are due and payable in 21 installments commencing with the first installment payable on the date of occupancy, and each subsequent installment, including interest as provided in the City Council approved development charge interest policy, as may be revised from time to time.
- c) Where the development of land results from the approval of a site plan or zoning by-law amendment received on or after January 1, 2020, and the approval of the application occurred within two years of building permit issuance, the development charges under Sections 5 (a) and 5 (b) shall be calculated on the rates set out in Schedule "A" on the date of the planning application, including interest. Where both planning applications apply development charges under Sections 5 (a) and 5 (b) shall be calculated on the rates, including interest as provided in the City's development charge interest policy, as may be revised from time to time, payable on the anniversary date each year thereafter, set out in Schedule "A" on the date of the later planning application, including interest.
- d) Notwithstanding Section 7 (c), any site plan or zoning by-law amendment application received between January 1, 2017 and December 31, 2019, shall be treated as if it was applied for on January 1, 2020, subject to building permit issuance being no later than January 1, 2023.
- e) Notwithstanding Section 5 (d) and Section 7 (a) to Section 7 (d), and in accordance with Section 27 of the Act, the City from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable.
7. (1) If Application is made for a Building Permit in respect of a parcel of land upon which a building existed within five (5) years prior to the date of such Application, but which premise has been demolished or destroyed before the date of such Application, then the amount of Development Charges payable upon issuance of the said Building Permit shall be reduced by the net amount, calculated pursuant to this By-law at the current Development Charge rates, that would be payable as Development Charges in respect of the demolished or destroyed premise, provided that such reduction shall not exceed the Development Charges otherwise payable. For purposes of this subsection, "net" means the excess of the Development Charges for premises constructed, over the Development Charges for premises demolished or destroyed.
- (2) If a development includes the conversion of a premise from one use (the "first use") to another use, then the amount of Development Charges payable shall be reduced by the amount, calculated pursuant to this By-law at the current Development Charge rates, that would be payable as Development Charges in respect of the first use, provided that such reduction shall not exceed the Development Charges otherwise payable.
8. Development Charges established under the By-law shall be payable prior to the issuance of any required Building Permit, as noted in s. 3.(g).
9. Notwithstanding Section (5) to Section (7) hereof, the City of Welland may, by Agreement enacted pursuant to Section (38) of the Development Charges Act, 1997, permit an Owner to perform

work that relates to a service in exchange for credit towards the Development Charge in accordance with the Agreement provided such credit shall not exceed the total Development Charge payable by an owner to the municipality.

10. Council may enter into front-ending agreements in accordance with the provision of the Act and the regulations from time to time in force.
11. Where any Development Charge, or part thereof, remains unpaid after the due date, the unpaid amount shall be added to the tax roll, shall be collected in the same manner as taxes and the Treasurer is hereby authorized and directed to do so.
12. (1) Where two or more actions described in Section 3(1) hereof 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 By-law.
  - (2) Notwithstanding Subsection (1), if two or more of the actions described in Section 3(1) occur at different times and the subsequent action has the effect of increasing the need for municipal services, an additional Development Charge shall be calculated and collected in accordance with this By-law.
13. Where a Development Charge applies pursuant to this By-law, no Building Permit shall be issued until the applicable Development Charge has been paid.
14. Where any refund of a Development Charge collected pursuant to this By-law is made in accordance with a Local Planning Appeal Tribunal order or a resolution of the Council of the Corporation of the City of Welland pursuant to an Order of the Local Planning Appeal Tribunal, the said refund shall be made in accordance with the Development Charges Act, 1997, and shall include interest at the Bank of Canada rate as of the day this By-law came into force, updated on the first business day of every January, April, July and October.
15. The Development Charges prescribed herein shall be adjusted annually, without amendment to this By-law, as of the 1st day of January 2023 in accordance with Statistics Canada Quarterly, "Construction Price Statistics."
16. This By-law shall not apply to:
  - a) Land that is owned by and used for the purposes of a Board of Education as defined by Subsection 1(1) of the Education Act;
  - b) Land that is Owned by and used for the purposes of a Municipality as defined by Section 1 of the Development Charges Act, 1997;
  - c) Non-profit residential development;
  - d) Industrial development;
  - e) Seasonal or temporary structures erected for a period not exceeding four (4) months;
  - f) Land that is owned by, and used, for the purpose of the Regional Municipality of Niagara or any University or College;
  - g) Garden Suites;
  - h) Parking structures;
  - i) Place of Worship – that portion of a place of worship which is used exclusively as a place of worship for religious services and any reception and meeting areas used in



connection with, or integral to, the worship space, including hallways, attached meeting rooms and lobbies and excluding, but not limited to, areas such as office, storage buildings, kitchen, classrooms, fellowship hall and library. Areas used for dormitories and/or residential use and/or non-residential uses are not considered a Place of Worship

- j) Charitable Institution – land owned, used and occupied by a charitable institution, provided that the charitable institution continues to own, use and occupy the lands for the relief of the poor for a period of three (3) years from the date that the Development Charges would otherwise be payable under this By-law or the Act (the “deferral period”). If the charitable institution ceases to own, use or occupy the lands for the relief of the poor within the deferral period, the Development Charges shall become immediately due and payable and Section 12 of this By-law applies; and
- k) Gas station canopies;
- l) Detached accessory dwelling units; and
- m) Agricultural development

- 17 (1) Monies received from payment of Development Charges shall be maintained in separate reserve funds for Water Services – Northwest Service Area, Wastewater Services - Northwest Service Area and Stormwater Services – Northwest Service Area. Funds shall be used only in accordance with Section 35 of the Development Charges Act, 1997.
- (2) The Treasurer of the Municipality shall, in each year, furnish to Council a statement in respect of the reserve fund established hereunder for the prior year, containing the information set out in Sections 12 and 13 of O.Reg. 82/98.
- (3) Borrowing for the reserve fund, or from one designated municipal service fund to another, for municipal financial purposes will be permitted as authorized from time to time by resolution or By-law of Council provided interest is paid in accordance with the Act and the regulations thereto and in particular Section 3.
18. A full refund of Development Charges shall be provided to the payee without interest where a project is abandoned, building permit revoked, and no construction has occurred.
19. This By-law shall be known as the “Development Charges By-law 2022 – Northwest Service Area” for the City of Welland.
20. This By-law shall remain in effect until the 18th day of August, 2027 at 12:00 midnight, unless otherwise repealed.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS 18<sup>th</sup> DAY OF August ,  
2022.

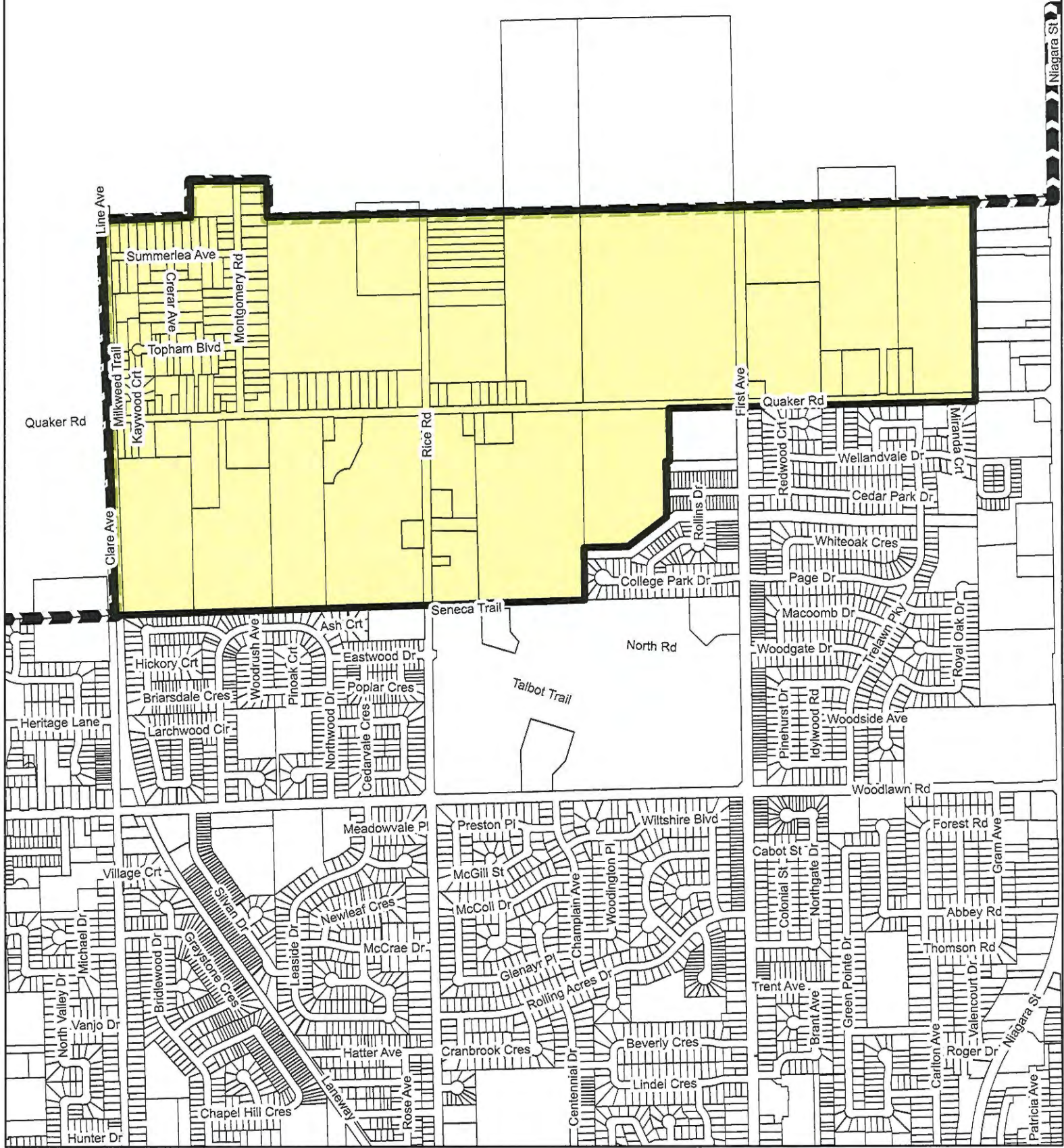
  
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MAYOR

  
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CLERK

**SCHEDULE "A"**  
**TO BY-LAW 2022-45 OF THE CITY OF WELLAND**  
**CITY OF WELLAND DEVELOPMENT CHARGES**

	(BY TYPE OF RESIDENTIAL USE - PER DWELLING UNIT)				PER DWELLING ROOM	
	SINGLE/SEMI- DETACHED/DUPLEX	ROWS & OTHER MULTIPLES	APARTMENTS - ONE BEDROOM OR LESS	APARTMENTS - TWO OR MORE BEDROOMS	RETIREMENT HOME/SPECIAL NEED/LODGING HOME	NON- RESIDENTIAL (PER SQUARE FOOT OF GFA)
<b>NORTHWEST SERVICE AREA</b>						
Stormwater	\$11,883.11	\$10,615.22	\$5,634.75	\$9,921.82	\$5,050.32	\$12.32
Water	\$1,765.61	\$1,577.22	\$837.22	\$1,474.20	\$750.38	\$1.83
Wastewater	\$1,110.62	\$992.12	\$526.64	\$927.32	\$472.01	\$1.15
	\$14,759.34	\$13,184.56	\$6,998.61	\$12,323.34	\$6,272.71	\$15.30

*DEVELOPMENT CHARGES SHALL BE ADJUSTED ANNUALLY, WITHOUT AMENDMENT TO BY-LAW, AS OF THE 1ST DAY OF JANUARY 2023 IN ACCORDANCE WITH STATISTICS CANADA QUARTERLY, "CONSTRUCTION PRICE STATISTICS"*



**THIS IS SCHEDULE "B" TO BY-LAW 2022-165**  
**PASSED THE 18TH DAY OF AUGUST, 2022**

SKETCH SHOWING

**NORTHWEST SERVICE AREA  
 DEVELOPMENT CHARGES**



MAYOR

CLERK



Planning & Development Services  
 Planning Division