THE CORPORATION OF THE CITY OF WATERLOO

BY-LAW NO. 2012-131

BEING A BY-LAW OF THE CORPORATION OF THE CITY OF WATERLOO WITH RESPECT TO DEVELOPMENT CHARGES.

WHEREAS section 2(1) of the Development Charges Act, 1997, as amended (the “Act”), enables the council of a municipality to pass by-laws imposing development charges against land located in the municipality for increased capital costs required because of the need for services arising from development in the area of the municipality to which the by-law applies;

AND WHEREAS the Council of the Corporation of the City of Waterloo (“Council”), at its meeting of December 10, 2012, approved Report FS 12-059, and in so doing adopted the "2012 Development Charge Background Study" dated November 16, 2012, prepared by City staff in association with Hemson Consulting Ltd. (the "Study");

AND WHEREAS Council provided notice of the development charge proposal set out in the Study (the "Proposal"), in accordance with section 12 of the Act, and held a public meeting on this same matter on December 3, 2012;

AND WHEREAS Council at that meeting heard the submissions of all persons who applied to be heard and, further, provided a sufficient period of time for the submission of written comments on the Proposal;

AND WHEREAS Council, in considering all submissions on the Proposal and in adopting the Study, directed that development charges be imposed on lands within the City subject to development or redevelopment which would have the effect of substantially increasing the usability of such lands, in accordance with the provisions of this by-law.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF WATERLOO enacts as follows:

1. In this by-law,

   DEFINITIONS

   (1) "Act" means the Development Charges Act, 1997, c.27, as amended;

   (2) "Assessment Act" means the Assessment Act, 1990, c.A.31, as amended;

   (3) "accessory" means the use of land, building or structures, which is incidental, subordinate and exclusively devoted to the principal use of the land, buildings or structures;
(4) "apartment dwelling" means any residential dwelling unit within a building or structure containing four (4) or more dwelling units, where units and floors are horizontally separated and where each dwelling unit has access to an interior common corridor system with shared exit and entrance at grade level;

(5) "bedroom" means a habitable room of 6 or more square metres where built-in cabinets are installed, or 7 square metres where such cabinets are not installed, including a den, study or other similar area, but does not include a living room, dining room or kitchen;

(6) "board of education" means a board defined in s.s.1(1) of the Education Act R.S.O. 1990, c.E.2, as amended;

(7) "Building Code Act" means the Building Code Act, S.O. 1992 c. 23, as amended;

(8) "capital cost" means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or under an agreement,

(a) to acquire land or an interest in land, including a leasehold interest;

(b) to improve land;

(c) to acquire, lease, construct or improve buildings and structures;

(d) to acquire, lease, construct or improve facilities including,

   (i) rolling stock, with an estimated life of seven years or more;

   (ii) furniture and equipment, other than computer equipment; and

   (iii) materials acquired for circulation, reference or information purposes by a library board as defined in the Public Libraries Act, R.S.O. 1990, c.34, as amended; and

(c) to undertake studies in connection with any of the matters referred to in clauses (a) to (d);

(f) to complete the development charge background study required under section 10 of the Act;

(g) interest on money borrowed to pay for costs in (a) to (d);

required for the provision of services designated in this by-law within or outside the municipality;

(9) "Chief Building Official" means the City's Chief Building Official or his or her designate;

(10) "City" means The Corporation of the City of Waterloo;

(11) "City Treasurer" means the City's Treasurer and Chief Financial Officer;
(12) "Condominium Act" means the Condominium Act, 1998 c. 19, as amended;

(13) "Council" means City Council;

(14) "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 increasing the size or usability thereof, and includes redevelopment;

(15) "development charge" means a charge imposed against land in the City under this by-law;

(16) "duplex dwelling" means a pair of attached dwelling units separated horizontally;

(17) "dwelling unit" means two or more rooms within any part of a building or structure designed or intended to be used by one person or persons living together in which both culinary and sanitary facilities are provided for their exclusive use;

(18) "existing industrial building" means a building or buildings existing on a site on August 16, 1999 or the first building or buildings constructed on a vacant site pursuant to site plan approval under section 41 of the Planning Act, subsequent to August 16, 1999 for which full development charges were paid, used for or in connection with,

(i) manufacturing, producing, processing, storing or distributing something provided that such activities occupy not less than 75% of the gross floor area of the building(s) on the site;

(ii) research or development in connection with manufacturing, producing or processing something which does not constitute more than 25% of the gross floor area of the building(s) on the site;

(iii) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, provided that the retail sales are at, and do not constitute more than 25% of the gross floor area of the building(s) on the site where the manufacturing, production or processing takes; or

(iv) office or administrative purposes, if they are,

(a) carried out with respect to manufacturing, producing, processing, storage or distributing of something; and

(b) in or attached to the building(s) or structure(s) used for that manufacturing, producing, processing, storage or distribution;

(19) "farm building" means that part of a bona fide farming operation encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use;
(20) "gross floor area" means the total floor area of a building or structure or part thereof, measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of any partition walls dividing the building or structure from another building or structure, of all floors, except for:

(a) a room or enclosed area within the building or structure above or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;

(b) loading facilities above or below grade;

(c) in the case of a residential building, a part of the building or structure that is used for:

(i) residential amenity space,

(ii) the parking of motor vehicles; and

(iii) storage or other accessory use; and

(d) in the case of a non-residential building, a part of the building or structure that is used for the parking of motor vehicles.

(21) "grade" means the average level of finished ground adjoining a building or structure at all exterior walls;

(22) "group home", "nursing home" or "senior citizens home" all mean any building or structure or portion thereof licenced or approved for funding under an Act of Parliament or the Province of Ontario, other than a private or public hospital, where persons are lodged and furnished with meals and care for compensation;

(23) "local board" has the same meaning as defined in the Act;

(24) "local services" means those facilities, works or matters which may be required by the City as a condition of approval under sections 51 or 53 of the Planning Act;

(25) "lodging house" means a building or portion thereof, designed or used for residential occupancy where a proprietor offers lodging units for hire or gain directly or indirectly to more than three other persons with or without meals. A lodging house shall not include a hotel, motel, bed and breakfast, nursing home, group home, institutional or other use that is licensed, approved or supervised under any general or specific Act;

(26) “lodging unit” means living accommodation which does not include the exclusive use of both a kitchen and a bathroom;

(27) "maisonette" means a building, each unit of which is a self-contained dwelling having separate services and heating facilities and at least two separate means of egress, one of which shall lead to a common corridor and the other shall lead directly to the outside space allocated to the unit;

(28) “Municipal Act” means the Municipal Act, 2001, S.O. 2001 c.25, as amended;
"multiple dwelling" means all dwellings other than single, semi-detached and apartment dwellings and lodging houses;

"non-residential use" means any commercial, industrial, institutional or other use not included in the definition of a residential use and “non-residential” has a corresponding meaning;

"Official Plan" means the City's Official Plan, and any amendments thereto;

"owner" means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;

"place of worship" means that part of a building or structure that is exempt from taxation as a place of worship under section 3 of the Assessment Act;

"Planning Act" means the Planning Act, 1990, c.P.13, as amended;

"Public Hospitals Act" means the Public Hospitals Act, c.P. 40, as amended;

"regulation" means Ontario Regulation 82/98, as amended;

"residential amenity space" means indoor or outdoor space on a lot that is:

(a) ancillary to a residential use; and
(b) communal and available for use by the residents of the residential building or residential portion of the building on the lot and their invitees for recreational or social activities;

"residential use" means land, buildings or structures of any kind whatsoever or a part thereof used, designed or intended to be used as living accommodations for one or more individuals, but does not include hospitals, hotels or group, nursing or senior citizens homes, and "residential" has a corresponding meaning;

"semi-detached dwelling" means a pair of attached single detached dwellings separated by a vertical firewall;

"services" (or "service") means those services set out in Schedule “A” to this bylaw;

"services in lieu" means those services specified in an agreement made under section 7 of this by-law;

"servicing agreement" means an agreement between a landowner and the municipality relative to the provision of municipal services to specified lands within the municipality;

"single detached dwelling" means any building used or intended for one dwelling unit;

"terrace dwelling" means a building containing a minimum of three dwelling units, the dwelling units of which may be horizontally and/or vertically separated in a split level or stacked manner. Each unit shall have a separate entrance at grade level or access to an interior corridor system with exit at grade level;
"triplex dwelling" means three dwelling units with a maximum of two (2) of the three (3) units being attached side by side;

"townhouse" means a building containing a minimum of three (3) or more dwelling units separated by a common wall, under a common roof and having common exterior walls. Each unit shall have a separate entrance at grade level and shall be separated from its neighbor by a continuous vertical party wall without opening from basement to roof.

2. SCHEDULE AND CALCULATION OF DEVELOPMENT CHARGES

(1) Council hereby determines that the development of land, within the City, unless otherwise specified in this by-law, will increase the need for the services referenced in Schedule "A".

(2) Subject to the subsection (4) and the other provisions of this by-law, development charges against land shall be calculated and collected in accordance with the base rates set out in Schedule "B" to this by-law, which relate to the services set out in Schedule "A".

(3) The development charge with respect to the use of any land, buildings or structures or portions thereof shall be calculated as the aggregate of the following:

(a) in the case of residential development, or the residential portion of a development containing both residential and non-residential uses on the basis of the number and type of dwelling units; and

(b) in the case of non-residential development, or the non-residential portion of a development containing both residential and non-residential uses on the basis of the gross floor area of such development.

(4) The phasing in of the development charge for non-residential uses calculated and collected under this by-law shall be as shown on Schedule "C" to this by-law.

3. APPLICABLE LANDS

(1) Subject to subsections (2), (3), (4) and (5), this by-law applies to all lands in the City of Waterloo, whether or not the lands or use is exempt from taxation under section 3 of the Assessment Act.

(2) This by-law shall not apply to land that is owned by and used for the purposes of:

(a) a board of education;

(b) any municipality or local board;

(c) universities or colleges except:

(i) development beyond lands designated "Academic" in the Official Plan;

(ii) industrial/research uses on university or college lands where the industrial/research use is the main use; or

(iii) commercial uses.
(3) This by-law shall not apply to:

(a) a temporary use permitted under a zoning by-law amendment enacted under section 39 of the Planning Act;

(b) the temporary use of a construction trailer in connection with the construction of the development; or

(c) the erection of a building without foundation as defined in the Building Code Act for a period not exceeding twelve (12) continuous month, provided that:

(i) the status of the building or structure as a temporary building or structure is maintained in accordance with the provisions of this subsection; and

(ii) upon application being made for the issuance of a permit under the Building Code Act, in relation to a temporary building or structure on land to which a development charge applies, the City may require that the owner submit security satisfactory to the City’s General Manager of Development Services, to be realized upon and in the event that the building or structure is present on the subject land for a continuous period exceeding twelve (12) months, and development charges thereby become payable.

(4) This by-law shall not apply to the development of land that constitutes, in accordance with, and subject to the restrictions contained in, section 2(3) of the Act and section 2 of the regulation:

(a) the enlargement of an existing dwelling unit;

(b) the creation of one or two additional dwelling units in an existing single detached dwelling; or

(c) the creation of one additional dwelling unit in any other existing residential building, provided the existing residential building unit is substantially complete.

For clarity, existing refers to the unit, dwelling or building prior to the first enlargement.

(5) This by-law shall not apply to the enlargement of an existing industrial building up to a maximum of fifty percent (50%) of the existing gross floor area prior to the first enlargement, in accordance with section 4 of the Act and section 1 of the regulation.

(6) Despite one or more lots being created from an original lot which result in an existing industrial building being separated on a lot from its previous enlargement(s) for which an exemption was granted under section 3(5) of this by-law, further exemptions, if any, shall be calculated on the basis of the gross floor area of the existing industrial building prior to the first enlargement and the lot prior to its division.

(7) Where a conflict exists between the provisions of this by-law and any other agreement between the City and the owner, with respect to land to be charged under this policy, the provisions of such agreement prevail to the extent of the conflict.
4. APPLICATION OF CHARGES

(1) Subject to subsection (2), development charges shall apply to, and shall be calculated and collected in accordance with the provisions of this by-law on land to be developed for residential and non-residential use for development that requires:

(i) the passing of a zoning by-law or an amendment thereto under section 34 of the Planning Act;

(ii) the approval of a minor variance under section 45 of the Planning Act;

(iii) a conveyance of land to which a by-law passed under subsection 50(7) of the Planning Act applies;

(iv) the approval of a plan of subdivision under section 51 of the Planning Act;

(v) a consent under section 53 of the Planning Act;

(vi) the approval of a description under section 50 of the Condominium Act; or

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

(2) Subsection (1) shall not apply in respect of the provision of local services or the installation of local connections to local services.

5. REQUIREMENT TO PROVIDE LOCAL SERVICES

Nothing in this by-law prevents Council from requiring the provision of local services with respect to any lands subject to development charges under this by-law.

6. MULTIPLE CHARGES

(1) Where two or more of the approvals described in section 4(1) are required at the same time for the development of land to which a development charge applies, only one development charge shall be calculated and collected in accordance with the provisions of this by-law.

(2) Notwithstanding subsection (1), if two or more of the approvals described in section 4(1) occur at different times, and if the subsequent approval has the effect of increasing the need for municipal services as set out in Schedule A, an additional development charge on the additional residential units and/or non-residential floor area, shall be calculated and collected in accordance with the provisions of this by-law.

7. SERVICES IN LIEU

(1) Council may authorize an owner, through an agreement under section 38 of the Act, to substitute such part of the development charge applicable to the owner's development as may be specified in the agreement, by the provision at the sole expense of the owner, of services in lieu. Such agreement shall further specify that where the owner provides services in lieu in accordance with the agreement, Council shall give to the owner a credit, without interest, against the development charge in accordance with the agreement provisions and the provisions of section 39 of the Act,
equal to the reasonable cost to the owner of providing the services in lieu, as determined by the City’s General Manager of Development Services. In no case shall the agreement provide for a credit which exceeds the total development charge payable by an owner to the municipality in respect of the development to which the agreement relates.

(2) In any agreement under section 7(1), Council may also give a further credit to the owner equal to the reasonable cost of providing services in addition to, or of a greater size or capacity, than would be required under this by-law.

(3) The credit provided for in subsection (2) shall not be charged to the reserve funds prescribed under section 11 of this by-law.

(4) Any unused credit may be applied upon proof satisfactory to the City's Chief Building Official, to any subsequent development charge payable in respect to the same land and may be transferable to subsequent owners thereof.

8. DEVELOPMENT CHARGE REDEVELOPMENT CREDITS

(1) Subject to the provisions of this section, where any redevelopment of land replaces or changes a former or existing development, and, in the case of demolition, a building permit has been issued within six (6) years from the date of demolition permit issuance or within five (5) years of the demolition, whichever occurs first, the development charge applicable to the redevelopment shall be reduced by a redevelopment allowance, without interest, not to exceed an amount equal to the total of:

(a) for residential development, the number and types of legally established dwelling units in the former or existing development; and

(b) for non-residential development, the legally established gross floor area of the former or existing development,

as determined by the City's General Manager of Development Services and the Chief Building Official at current applicable rates for such units or gross floor area.

(2) No redevelopment allowance shall be made in excess of the development charge payable for a redevelopment; however, where any redevelopment of land replaces or changes a former or existing development and in the case of demolition, a building permit has been issued within six (6) years from the date of demolition permit issuance or within five (5) years of demolition, whichever occurs first, the redevelopment allowance may be carried forward and applied, upon proof satisfactory to the City's General Manager of Development Services and the Chief Building Official, to any subsequent development charge payable in respect to the same land as referred to in subsection (a).

9. TIMING OF CALCULATION AND PAYMENT

(1) Development charges shall be calculated and payable in full in money or by provision of services as may be agreed upon, or by credit granted by the Act, on the date that the first building permit is issued in relation to a building or structure on land to which a development charge applies, or in a manner or at a time otherwise lawfully agreed upon.

(2) Where development charges apply to land in relation to which a building permit is
required, the building permit shall not be issued until the development charge has been paid in full.

(3) Notwithstanding subsections (1) and (2), Council may agree to enter into an agreement with an owner under section 27 of the Act to provide for the payment in full of a development charge before building permit issuance or later than the issuing of a building permit.

(4) Where any development charge, or part thereof, remains unpaid after the date provided for payment in an agreement entered into pursuant to subsection 3, the amount unpaid shall be added to the tax roll and shall be collected as taxes under section 446 of the Municipal Act.

(5) Where any unpaid development charges are collected as taxes under subsection (4), the monies so collected shall be credited to the development charge reserve fund or funds referred to in subsection 12(1).

10. REFUNDS

Where development charges have been paid on the issuance of a building permit and that building permit is subsequently cancelled or revoked one year less a day after the issuance of the permit without development having been commenced, for the purposes of this by-law the building permit shall be deemed never to have been issued, and the amount of the development charges paid shall be refunded to the payor without interest.

11. BY-LAW REGISTRATION

This By-law or a certified copy of this by-law may be registered against the title to any land to which this by-law applies.

12. RESERVE FUNDS

(1) Monies received from payment of development charges shall be maintained in a separate reserve fund for each service designated in Schedule "A," plus interest earned thereon.

(2) Monies received for the payment of development charges shall be used only in accordance with the provisions of section 35 of the Act.

(3) The City Treasurer shall, commencing in 2013 for the 2012 year, furnish to Council a statement in respect of the reserve funds established hereunder for the prior year, containing the information set out in sections 12 and 13 of the regulation.

13. BY-LAW AMENDMENT OR REPEAL

(1) Where this by-law or any development charge prescribed thereunder is amended or repealed by order of the Ontario Municipal Board or by resolution of the Municipal Council, the City Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal.

(2) Refunds that are required to be paid under subsection (1) shall be paid to the registered owner of the land on the date on which the refund is paid.

(3) Refunds that are required to be paid under subsection (1) shall be paid with interest to be calculated as follows:
interest shall be calculated from the date on which the overpayment was collected to the day on which the refund is paid;

(b) the refund shall include the interest owed under this section; and

(c) interest shall be paid at the Bank of Canada rate in effect on the date of enactment of this by-law.

14. DEVELOPMENT CHARGE SCHEDULE INDEXING

The development charges referred to in Schedule "B" shall be adjusted annually, without amendment to this by-law, commencing in January 2014, and annually thereafter in each January while this by-law is in force, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Non-residential Building Construction Price index".

15. BY-LAW ADMINISTRATION

This by-law shall be administered by the City Treasurer.

16. SCHEDULES TO THE BY-LAW

The following schedules to this by-law form an integral part of this by-law:

Schedule A - Designated Municipal Services

Schedule B - Schedule of Development Charges

Schedule C - Schedule of the Phasing in of Non-Residential Development Charges

17. DATE BY-LAW EFFECTIVE

This by-law shall come into force and effect on January 1, 2013. For greater clarity, the development charges set out in this by-law shall apply to any building permit issued on or after January 1, 2013.

18. EXISTING DEVELOPMENT CHARGE BY-LAW REPEAL

By-law 08-094 is repealed effective the date that this by-law comes into force and effect.

19. SEVERABILITY

If, for any reason, any provision, section, subsection or paragraph of this by-law is held to be invalid, it is hereby declared to be the intention of Council that all of the remainder of this by-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part or dealt with in any other way.

20. SHORT TITLE

This by-law may be cited as the "Waterloo Development Charge By-law #2012-131"

21. NON-BINDING NATURE

Nothing in this by-law shall be construed so as to commit or require the City or its
Council to authorize or proceed with any specific capital project at any specific time.

<table>
<thead>
<tr>
<th>Approval</th>
<th>Date</th>
<th>By</th>
<th>Initials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dept</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legal</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Finance</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B. Halloran, Mayor

S. Greatrix, City Clerk
1. ROADS AND RELATED SERVICES - Services, design, construction and land acquisition
2. WATER SUPPLY AND WASTE WATER SERVICES - Services, design, construction and land acquisition
3. STORMWATER DRAINAGE AND CONTROL SERVICES - Services, design, construction and land acquisition
4. PARKS AND MAJOR INDOOR RECREATION FACILITIES - Development of park land, including structures, major structures and associated land requirements containing indoor recreation uses
5. PUBLIC WORKS AND PARKING - Vehicles, rolling stock, structures and land acquisition associated with public works, and land acquisition and development of land for parking.
6. LIBRARY - Structures, land acquisition and collections inventory
7. CEMETERIES - Land acquisition and development of land
8. FIRE - Land acquisition, design, buildings, vehicles and equipment
9. GROWTH STUDIES - Studies pertaining to the above-referenced services and not covered therein.
10. ENGINEERING STUDIES - Studies pertaining to items 1, 2 and 3 above.
### SCHEDULE "B"

#### CITY OF WATERLOO

#### SCHEDULE OF DEVELOPMENT CHARGES

<table>
<thead>
<tr>
<th>Service</th>
<th>Residential Charge By Unit Type</th>
<th>Non Residential Charge per Square Metre</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Singles &amp; Semis</td>
<td>Apartments 1 Bedroom or Less</td>
</tr>
<tr>
<td>Library Services</td>
<td>$792</td>
<td>$360</td>
</tr>
<tr>
<td>Protective Services</td>
<td>$417</td>
<td>$190</td>
</tr>
<tr>
<td>Parks and Major Indoor Recreation Facilities</td>
<td>$3,658</td>
<td>$1,663</td>
</tr>
<tr>
<td>Cemeteries</td>
<td>$34</td>
<td>$15</td>
</tr>
<tr>
<td>Public Works and Parking</td>
<td>$1,139</td>
<td>$518</td>
</tr>
<tr>
<td>Growth Studies</td>
<td>$196</td>
<td>$89</td>
</tr>
<tr>
<td><strong>Subtotal General Services</strong></td>
<td><strong>$6,236</strong></td>
<td><strong>$2,835</strong></td>
</tr>
<tr>
<td>Roads and Related Services</td>
<td>$1,081</td>
<td>$491</td>
</tr>
<tr>
<td>Water Supply and Wastewater</td>
<td>$3,159</td>
<td>$1,436</td>
</tr>
<tr>
<td>Stormwater Drainage and Control Services</td>
<td>$1,018</td>
<td>$463</td>
</tr>
<tr>
<td>Engineering Studies</td>
<td>$259</td>
<td>$118</td>
</tr>
<tr>
<td><strong>Subtotal Engineered Services</strong></td>
<td><strong>$5,517</strong></td>
<td><strong>$2,508</strong></td>
</tr>
<tr>
<td><strong>TOTAL CHARGE PER UNIT</strong></td>
<td><strong>$11,753</strong></td>
<td><strong>$5,343</strong></td>
</tr>
</tbody>
</table>
SCHEDULE "C"

Phased In Rate Per Square Metre for Non Residential Development

The Non-Residential Development Charge, subject to the indexing adjustments under section 14 of this by-law, shall be phased in as follows:

<table>
<thead>
<tr>
<th>Date Effective</th>
<th>Rate per Square Metre</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1 2013</td>
<td>$54.63</td>
</tr>
<tr>
<td>January 1 2014</td>
<td>$60.20</td>
</tr>
<tr>
<td>January 1 2015</td>
<td>$65.77</td>
</tr>
</tbody>
</table>