

THE CORPORATION OF THE TOWNSHIP OF TAY

BY-LAW NUMBER 2009-23

A By-Law to Establish Development Charges for the Corporation of the Township of Tay

WHEREAS the Township of Tay will experience growth through development and re-development;

AND WHEREAS development and re-development requires the provision of physical and social services by the Township of Tay;

AND WHEREAS Council desires to ensure that the capital cost of meeting growth-related demands for or burden on municipal services does not place an excessive financial burden on the Township of Tay or its existing taxpayers while at the same time ensuring new taxpayers contribute no more than the net capital cost attributable to providing the current level of municipal services;

AND WHEREAS the *Development Charges Act, 1997* (the "Act") provides that the 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;

AND WHEREAS a development charge background study has been completed in accordance with the Act;

AND WHEREAS the Council of The Corporation of the Township of Tay has given notice of and held a public meeting on the 11th day of February, 2009 in accordance with the Act and the regulations thereto;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF TAY ENACTS AS FOLLOWS:

1. INTERPRETATION

1.1 In this By-law the following items shall have the corresponding meanings:

"Act" means the *Development Charges Act*, as amended, or any successor thereof;

"apartment unit" means any residential unit within a building containing more than four dwelling units where the units are connected by an interior corridor;

"bedroom" means a habitable room which can be used as sleeping quarters, but does not include a bathroom, living room, dining room or kitchen;

"board of education" has the same meaning as set out in the *Education Act*, R.S.O. 1990, Chap. E.2, as amended, or any successor thereof;

"bona fide farm uses" means the proposed development that will qualify as a farm business operating with a valid Farm Business Registration Number issued by the Ontario Ministry of Agriculture, Food and Rural Affairs and be assessed in the Farmland Realty Tax Class by the Ontario Property Assessment Corporation;

"Building Code Act" means the *Building Code Act*, S.O. 1992, as amended, or any successor thereof;

"capital cost" means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or by others on behalf of and as authorized by the municipality or local board,

- (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, construct or improve facilities including,
 - (i) furniture and equipment other than computer equipment, and
 - (ii) material acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, R.S.O. 1990, Chap. P.44, as amended, or any successor thereof; and
 - (iii) rolling stock with an estimated useful life of seven years or more, and

- (e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d) above, including the development charge background study required for the provision of services designated in this By-law within or outside the municipality, including interest on borrowing for those expenditures under clauses (a) to (e) above that are growth-related;

“commercial” means any use of land, structures or buildings for the purposes of buying or selling commodities and services, but does not include industrial or agricultural uses, but does include hotels, motels, motor inns and boarding, lodging and rooming houses;

“Council” means the Council of the Township of Tay;

“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 the effect of increasing the size of usability thereof, and includes redevelopment;

“development charge” means a charge imposed with respect to this By-law;

“dwelling unit” means any part of a building or structure used, designed or intended to be used as a domestic establishment in which one or more persons may sleep and are provided with culinary and sanitary facilities for their exclusive use;

“existing” means the number, use and size that existed as of the date this by-law was passed;

“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;

“gross floor area” means:

- (a) in the case of a residential building or structure, the total area of all floors above grade of a dwelling unit measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit from any other dwelling unit or other portion of a building; and
- (b) in the case of a non-residential building or structure, or in the case of a mixed-use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below grade measured between the outside surfaces of the exterior walls, or between the outside surfaces of exterior walls and the centre line of party walls dividing a non-residential use and a residential use, except for:
 - (i) a room or enclosed area within the building or structure above or below that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
 - (ii) loading facilities above or below grade; and
 - (iii) a part of the building or structure below grade that is used for the parking of motor vehicles or for storage or other accessory use;

“industrial” means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;

“institutional” means land, buildings, structures or any part thereof used by any organization, group or association for promotion of charitable, educational or benevolent objectives and not for profit or gain;

“Local Board” means a school board, public utility, commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of the municipality or any part or parts thereof;;

“local services” means those services, facilities or things which are under the jurisdiction of the Township of Tay and are related to a plan of subdivision or within the area to which the plan relates in respect of the lands under Sections 41, 51 or 53 of the *Planning Act*, R.S.O. 1990, Chap. P.13, as amended, or any successor thereof;

“multiple dwellings” means all dwellings other than single-detached, semi-detached and apartment unit dwellings;

“municipality” means the Corporation of the Township of Tay;

“non-residential use” means a building or structure of any kind whatsoever used, designed or intended to be used for other than a residential use;

“Official Plan” means the Official Plan adopted for the Township, as amended and approved;

“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 the *Assessment Act*, R.S.O. 1990, Chap. A.31, as amended, or any successor thereof;

“Rate” means the interest rate established weekly by the Bank of Canada based on Treasury Bills having a term of 91 days;

“regulation” means any regulation made pursuant to the Act;

“Residential Dwelling” means a building, occupied or capable of being occupied as a home, residence or sleeping place by one or more persons, containing one or more Dwelling Units but not including motels, hotels, tents, truck campers, tourist trailers, mobile camper trailers or boarding, lodging or rooming houses;

“residential use” means the use of a building or structure or portion thereof for one or more Dwelling Units. This also includes a Dwelling Unit on land that is used for an Agricultural Use;

“row dwelling” means a building containing three or more attached dwelling units in a single row, each of which dwelling units has an independent entrance from the outside and is vertically separated from any abutting dwelling unit;

“semi-detached dwelling” means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but not other parts, attached or another dwelling unit where the residential unit are not connected by an interior corridor;

“service” means a service designed in Schedule “A” to this By-law, and “services” shall have a corresponding meaning;

“servicing agreement” means an agreement between a landowner and the municipality relative to the provision of municipal services to specified land within the municipality;

“single detached dwelling unit” means a residential building consisting of one dwelling unit and not attached to another structure;

“Township” means the area within the geographic limits of the Township of Tay; and

“Zoning By-Law” means the Zoning By-Law of the Township of Tay or any successor thereof passed pursuant to Section 34 of the Planning Act, S.O. 1998.

2. **DESIGNATION OF SERVICES**

2.1 The categories of services for which development charges are imposed under this By-law are as follows:

- (a) Roads and Related;
- (b) Fire Protection Services;
- (c) Outdoor Recreation Services;
- (d) Indoor Recreation Services;
- (e) Library Services;
- (f) Administration Services
- (g) Wastewater Services
- (h) Water Services

2.2 The components of the services designated in section 2.1 are described in Schedule A.

3. APPLICATION OF BY-LAW RULES

3.1 Development charges shall be payable in the amounts set out in this By-law where:

- (a) the lands are located in the area described in section 3.2; and
- (b) the development of the lands requires any of the approvals set out in subsection 3.4(a).

Area to Which By-law Applies

3.2 Subject to section 3.3, this By-law applies to all lands in the Township of Tay whether or not the land or use thereof is exempt from taxation under s.13 or the Assessment Act.

3.3. Notwithstanding clause 3.2 above, this by-law shall not apply to lands that are owned by and used for the purposes of:

- (a) the municipality or a local board thereof; or
- (b) a board of education.

Approvals for Development

- 3.4 (a) Development charges shall be imposed on all lands, buildings or structures that are developed for residential or non-residential uses if the development requires:
- (i) the passing of a zoning by-law or of an amendment to a zoning by-law 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*, R.S.O. 1990, Chap. C.26, as amended, or any successor thereof; or
 - (vii) the issuing of a permit under the *Building Code Act* in relation to a building or structure.
- (b) No more than one development charge for each service designated in subsection 2.1 shall be imposed upon any lands, buildings or structures to which this By-law applies even though two or more of the actions described in subsection 3.4(a) are required before the lands, buildings or structures can be developed.
- (c) Despite subsection 3.4(b), if two or more of the actions described in subsection 3.4(a) occur at different times, additional development charges shall be imposed if the subsequent action has the effect of increasing the need for services.

Exemptions

3.5 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) one or two additional dwelling units in an existing single detached dwelling; or
- (c) one additional dwelling unit in any other existing residential building;

3.6 Notwithstanding section 3.5(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.

3.7 Notwithstanding section 3.5, 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.

3.8 Exemption for Industrial Development:

3.8.1 Notwithstanding any other provision of this by-law, no development charge is payable with respect to an enlargement of the gross floor area of an existing industrial building where the gross floor area is enlarged by 50 percent or less.

3.8.2 If the gross floor area of an existing industrial building is enlarged by greater than 50 percent, the amount of the development charge payable in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:

- 1) determine the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement;
- 2) divide the amount determined under subsection 1) by the amount of the enlargement

3.8.3 For the purpose of section 3.8 herein, "existing industrial building" is used as defined in the Regulation made pursuant to the Act.

3.9 Other Exemptions:

Notwithstanding the provision of this by-law, development charges shall not be imposed with respect to:

- i. Industrial Buildings;
- ii. Institutional Buildings;
- iii. Non-residential farm buildings constructed for bona fide farm uses;
- iv. Places of Worship;
- v. Commercial Development Charges will be exempt from properties zoned Village Commercial by Zoning By-law 2000-57, as amended, or its successor, in the downtown core areas of the communities of Port McNicoll, Victoria Harbour and Waubaushene as follows:
 1. Properties fronting on Talbot Street from Sixth Avenue to First Street, Ney Street and/or Forth Street north of Talbot to Assiniboia Street in the community of Port McNicoll.
 2. Properties fronting on Albert Street, John Street, Ellen Street, William Street from Cadeau Place to Ellen Street, and/or Richard Street from Albert Street to Ellen Street in the community of Victoria Harbour.
 3. Properties fronting on Sturgeon Bay Road east of Ouida Street and/or Pine Street south of Dodge Drive in the community of Waubaushene.
- vi. Commercial Development Charges will be phased in for properties zoned Village Commercial in the community of Port McNicoll from the downtown core area to the waterfront but not including those lands on the southeast side of the harbour. (25% of the charge for the first three years, and 50% of the charge for years 4 and 5.); and
- vii. The Treasurer shall rebate the water and/or wastewater service components of the calculated development charge for developments where these services are not available within five hundred feet and servicing plans are not scheduled within five years of the building permit issuance.

Amount of Charges

Residential

3.10 The development charges set out in Schedule B 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.

Non-Residential

3.11 The development charges described in Schedule B 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. 25% of the commercial charge contained in Schedule B shall be imposed for the first year the bylaw is enacted; and that the charge be increased by up to 20% on the first day of January of each year for the duration of the bylaw.

Reduction of Development Charges for Redevelopment

3.12 Despite any other provisions of this By-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within 5 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 principal use on the same land, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by the following amounts:

- (a) 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 subsection 3.11 by the number, according to type, of dwelling units that have been or will be demolished or converted to another principal use; and
 - (b) in the case of a non-residential building or structure or, in the case of mixed-use building or structure, the non-residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charges under subsection 3.12, by the gross floor area that has 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.

Time of Payment of Development Charges

- 3.13 Development charges shall be calculated and payable at the rate of 25% of the calculated amount, in money or by provision of service as may be agreed upon, or by credit granted under the Act, on the date of registration of a plan of subdivision under section 51 of the *Planning Act*. Development charges shall be calculated and payable at the rate of 75% of the calculated amount, in money or by provision of services as may be agreed upon, or by credit granted under the Act, on the date that the building permit is issued in relation to a building or structure on land to which the development charge applies.
- 3.14 Notwithstanding section 3.13, if no new plan of subdivision is required, 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 under the Act, on the date that the building permit is issued in relation to a building or structure on land to which a development charge applies.
- 3.15 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.

4. PAYMENT BY SERVICES

- 4.1 Despite the payment required under subsections 3.11 and 3.12, Council may, by agreement, give a credit towards a development charge in exchange for work that relates to a service to which a development charge relates under this By-law.

5. INDEXING

- 5.1 Development charges imposed pursuant to this By-law shall be adjusted annually on the first day of January without amendment to this By-law, in accordance with the third quarter of the prescribed index in the Act.

6. SCHEDULES

- 6.1 The following schedules shall form part of this By-law:
 - Schedule A - Components of Services Designated in section 2.1
 - Schedule B - Residential and Non-Residential Development Charges

7. CONFLICTS

- 7.1 Where the Township and an owner or former owner have entered into an agreement with respect to land within the area to which this By-law applies, and a conflict exists between the provisions of this By-law and such agreement, the provisions of the agreement shall prevail to the extent that there is a conflict.
- 7.2 Notwithstanding section 7.1, where a development which is the subject of an agreement to which section 7.1 applies, is subsequently the subject of one or more of the actions described in subsection 3.4(a), an additional development charge in respect of the development permitted by the action shall be calculated, payable and collected in accordance with the provisions of this By-law if the development has the effect of increasing the need for services, unless such agreement provides otherwise.

8. SEVERABILITY

- 8.1 If, for any reason, any provision of this By-law is held to be invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

9. REPEAL OF CURRENT BY-LAW

9.1 That By-law 2004-61 be hereby repealed.

10. DATE BY-LAW IN FORCE

10.1 This By-law shall come into force and take effect immediately upon the final reading thereof.

11. DATE BY-LAW EXPIRES

11.1 This By-law will expire at 12:01 AM on March 11, 2014 unless it is repealed by Council at an earlier date.

BY-LAW READ A FIRST, SECOND, AND THIRD TIME AND FINALLY PASSED THIS 11th DAY OF MARCH, 2009.

THE CORPORATION OF THE TOWNSHIP OF TAY

MAYOR

CLERK

SCHEDULE "A" TO BY-LAW 2009-23

COMPONENTS OF SERVICES DESIGNATED IN SUBSECTION 2.1

100% Eligible Services

Roads and Related

- Roads
- Public Works Facilities
- Public Works Rolling Stock

Fire Protection Services

- Fire Vehicles
- Small Equipment and Gear

Wastewater Services

- Treatment Plants
- Public Works Rolling Stock (Wastewater)

Water Services

- Treatment Plants and Storage
- Distribution Systems
- Public Works Rolling Stock (Water)

90% Eligible Services

Outdoor Recreation Services

- Parkland Development
- Parks and Recreation Vehicles and Equipment

Indoor Recreation Services

- Indoor Recreation Facilities

Library Services

- Library Facilities
- Library Collection Materials

Administration Services

- Growth Related Studies

SCHEDULE "B" TO BY-LAW 2009-23
SCHEDULE OF DEVELOPMENT CHARGES

SERVICE	RESIDENTIAL				NON-RESIDENTIAL
	Single-Detached Dwelling & Semi-Detached Dwelling	Apartments 2 Bedrooms +	Apartments Bachelor & 1 Bedroom	Multiple Dwellings	(per ft ² of Gross Floor Area)
Municipal Wide Services:					
Roads and Related	1,424	1,003	712	1,338	2.12
Fire Protection Services	430	303	215	404	0.28
Outdoor Recreation Services	1,164	820	582	1,093	0.46
Indoor Recreation Services	447	315	224	420	0.18
Library Services	262	185	131	246	0.10
Administration	266	187	133	250	0.44
Total Municipal Wide Services	3,992	2,813	1,997	3,751	3.58
Urban Services					
Wastewater Services	6,761	4,764	3,381	6,352	9.60
Water Services	1,447	1,020	724	1,359	2.05
Total Urban Services	8,208	5,784	4,105	7,711	11.65
TOTAL TOWNSHIP-WIDE	3,992	2,813	1,997	3,751	3.58
TOTAL WATER ONLY	5,440	3,833	2,721	5,110	5.63
GRAND TOTAL (FULLY SERVICED)	12,201	8,597	6,102	11,462	15.23