
APPENDIX F
PROPOSED COUNTY OF LANARK DEVELOPMENT CHARGE
BY-LAW (2010)

Proposed Development Charge By-law

THE CORPORATION OF THE COUNTY OF LANARK**BY-LAW NO. 2010-XXX****BEING A BY-LAW OF THE CORPORATION OF THE COUNTY OF
LANARK WITH RESPECT TO DEVELOPMENT CHARGES.**

WHEREAS section 2(1) of the *Development Charges Act, 1997* (hereinafter called "the Act") enables the Council of a municipality to pass by-laws for the imposition of development charges against land located in the municipality for increased capital costs required because of the increased need for services arising from development in the area to which the by-law applies;

AND WHEREAS the Council of The Corporation of the County of Lanark has made "The County of Lanark Development Charge Background Study," dated May 11, 2010, prepared by Watson & Associates Economists Ltd., available to the public at least two weeks prior to the public meeting and has given Notice in accordance with section 12 of the Act of its intention to pass a by-law under section 2 thereof and has heard all persons who applied to be heard whether in objection thereto or in support thereof;

AND WHEREAS on _____, Council approved the Background Study, thereby indicating that it intends that the increase in the need for services attributable to the anticipated development will be met, and determined that no further public meetings were required under the Act;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF LANARK enacts as follows:

1. In this by-law,

DEFINITIONS

- (a) "Act" means the *Development Charges Act, 1997, S.O. 1997, c. 27, as amended*;
- (b) "agricultural use" means lands, buildings or structures, excluding any portion thereof used as a dwelling unit or for a commercial use, used or designed or intended for use for the purpose of a *bona fide* farming operation including, but not limited to, animal husbandry, dairying, livestock, fallow, field crops, removal of sod, forestry, fruit farming, greenhouses, horticulture, market gardening, pasturage, poultry keeping, and equestrian facilities;
- (c) "apartment dwelling" means a dwelling consisting of four or more dwelling units, which units have a common entrance from street level and common halls and /or stairs, elevators and yards;
- (d) "bedroom" means any room used or designed or intended for use as sleeping quarters including but not limited to, a den, a study, a family room or other similar use;

- (e) “commercial” means any non-residential development not defined as “industrial” in this by-law;
- (f) “Council” means the council of the County;
- (g) “County” means the “Corporation of the County of Lanark”;
- (h) “detached dwelling” means a dwelling containing only a dwelling unit or a dwelling unit and an accessory apartment
- (i) “development” includes redevelopment;
- (j) “development charge” means a charge imposed pursuant to this by-law adjusted in accordance with Section 13;
- (k) “dwelling unit” means a room or group of rooms in a dwelling used or intended to be used as a single independent and separate housekeeping unit containing a kitchen or sanitary facilities, and has a private entrance from outside the dwelling or from a common hallway or stairway inside the dwelling, but does not include a room or suite of rooms in a hotel or motel;
- (l) “grade” means the average level of finished ground adjoining a building at all exterior walls;
- (m) “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;
- (n) “hospital” means land, buildings or structures used, or designed or intended for use as defined in the Public Hospitals Act, R.S.O. 1990, c. P.40, as amended;
- (o) “industrial” means any building used for or in connection with,
 - (i) manufacturing, producing, processing, storing or distributing something and includes a greenhouse;
 - (ii) research or development in connection with manufacturing, producing or processing something;
 - (iii) retail sales by a manufacturer, producer or processor of something manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place; and,
 - (iii) office for administrative purposes, if carried out with respect to manufacturing, producing, processing, storage or distribution and in or attached to the building or structure used for that manufacturing, producing, storage or distribution;
- (p) “non-residential use” means land, buildings or structures or portions thereof used, or designed or intended for a use other than a residential use;

- (q) "other dwelling" means any residential dwelling which is not a detached dwelling, a semi-detached dwelling, or an apartment dwelling;
- (r) "place of worship" means that part of a building or structure used for worship and that is exempt from taxation as a place of worship under the Assessment Act, R.S.O. 1990, c. A.31, as amended;
- (s) "residential use" means land or buildings or structures or part thereof of any kind whatsoever used, designed or intended to be used as a residence for one or more individuals but does not include a hotel or motel;
- (t) "semi-detached dwelling" means the whole of a dwelling divided vertically both above grade and below grade into two separate dwelling units.

2. SCHEDULE OF DEVELOPMENT CHARGES

- (1) Subject to the 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, which relate to the services set out in Schedule A.
- (2) The development charge with respect to the use of any land, buildings or structures shall be calculated as follows:
 - (a) in the case of residential development, or the residential portion of a mixed-use development, based upon the number and type of dwelling units, in accordance with Schedule B;
 - (b) in the case of non-residential development, or the non-residential portion of a mixed-use development, based upon the number of square feet of gross floor area of such development, in accordance with Schedule B.
- (3) Council hereby determines that the development of land, buildings or structures for residential and non-residential uses have required or will require the provision, enlargement, expansion or improvement of the services referenced in Schedule A.
- (4) This by-law does not provide for the phasing in of the base rates in Schedule B.

3. APPLICABLE LANDS

- (1) Subject to subsections (2), (3), (4) and (7), this by-law applies to all lands in the County, whether or not the land or use is exempt from taxation under Section 3 of the *Assessment Act*, 1990, c.A..31.
- (2) This by-law shall not apply to:
 - (a) land that is owned by and used for purposes of:
 - (i) a board as defined in subsection 1(1) of the *Education Act*;
 - (ii) the County, or any local board thereof;

- (iii) An area municipality, or any local board thereof in the County; or
 - (b) the development of a non-residential farm building used for bona fide agricultural use;
 - (c) a place of worship and land used in connection therewith; or
 - (d) a hospital;
 - (e) an industrial building.
- (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) temporary erection of a building without foundation as defined in the *Building Code Act* for a period not exceeding six (6) consecutive months and not more than six (6) months in any one calendar year on a site;
 - (c) development where, by comparison with the land at any time within five years previous to the imposition of the charge:
 - (i) no additional dwelling units are being created;
 - (ii) no additional non-residential gross floor area is being added.
- (4) Section 2 of this by-law shall not apply to that category of exempt development described in s.s. 2(3) of the *Act*, namely:
- (a) the enlargement of an existing dwelling unit or the creation of one or two additional dwelling units in an existing detached dwelling; or
 - (b) the creation of one additional dwelling unit in any other existing residential building.
- (5) Notwithstanding subsection (4)(a), development charges shall be calculated and collected in accordance with Schedule B where the total residential gross floor area of the additional one or two dwelling units is greater than the total gross floor area of the existing dwelling unit.
- (6) Notwithstanding subsection (4)(b), development charges shall be calculated and collected in accordance with Schedule B, where the additional dwelling unit has a residential gross floor area greater than,
- (a) in the case of a semi-detached house, the gross floor area of the existing smallest dwelling unit, and
 - (b) in the case of any other residential building, the residential gross floor area of the smallest dwelling unit contained in the residential building.
- (7) Section 2 of this by-law shall not apply to that category of exempt development described in s.4 of the *Act*, and s.1 of O.Reg. 82/98, namely:

- (a) the enlargement of the gross floor area of an existing industrial building, if the gross floor area is enlarged by 50 percent or less;
 - (b) for the purpose of (a), the terms “gross floor area” and “existing industrial building” shall have the same meaning as those terms have in O.Reg. 82/98 under the Act.
 - (c) Notwithstanding subsection (a), if the gross floor area is enlarged by more than 50 per cent, development charges shall be payable and collected and the amount payable shall be calculated in accordance with s.4(3) of the Act.
- (8) That where a conflict exists between the provisions of this by-law and any other agreement between the County and the owner, with respect to land to be charged under this by-law, 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, paid and collected in accordance with the provisions of this by-law in respect of land to be developed for residential and non-residential uses within the geographical limits of the County, where,
- (a) the development requires,
 - (i) the passing of a zoning by-law or an amendment thereto under Section 34 of the *Planning Act*, R.S.O. 1990, cP.13, as amended (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 9 of the *Condominium Act*, 1998 S.O. c. 19, as amended; or
 - (vii) the issuing of a permit under the *Building Code Act*, 1992 S.O. c. 23, as amended, in relation to a building or structure.
- (2) Subsection (1) shall not apply in respect of local services as described in s.s.59(2) (a) and (b) of the Act;

5. LOCAL SERVICE INSTALLATION

Nothing in this by-law prevents Council from requiring, as a condition of any approval under s. 41, 51 or 53 of the *Planning Act.*, that the owner, at his or her own expense, shall install or pay for such local services, as Council may require, or that the owner pay for the local connection to a water, sanitary sewer or storm drainage facility related to the approval or within the area to which the approval relates.

6. MULTIPLE CHARGES

- (1) Where two or more of the actions described in Section 4(1) of this by-law are required before land to which a development charge applies can be developed, only one development charge shall be calculated, paid and collected in accordance with the provisions of this by-law.
- (2) Notwithstanding subsection (1), if two or more of the actions described in Section 4(1) of this by-law occur at different times, and if the subsequent action has the effect of increasing the need for municipal services as set out in Schedule A, an additional development charge shall be calculated and collected in accordance with the provisions of this by-law.
- (3) If a development does not require a building permit but does require one or more of the actions described in Subsection 4(1) of this by-law, then the development charge shall nonetheless be payable in respect of any increased or additional development permitted by such action.

7. SERVICES IN LIEU

Council may authorize an owner, through an agreement under s.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 s.39 of the Act, equal to the reasonable cost to the owner of providing the services in lieu, as determined by the County. In no case shall the agreement provide for a credit which exceeds the total development charge payable by an owner to the County in respect of the development to which the agreement relates.

8. DEVELOPMENT CHARGE REDEVELOPMENT CREDITS

- (1) Where residential space is being converted to non-residential space, the development charge equivalent that would have been payable on the residential space shall be deducted from the charge calculated on the non-residential space being added.
- (2) Where non-residential space is being converted to residential space, the development charge equivalent that would have been payable on the non-residential space shall be deducted from the charge calculated on the residential units being added.

- (3) An owner who has obtained a demolition permit and demolished existing dwelling units or a non-residential building or structure in accordance with the provisions of the *Building Code Act* shall not be subject to the development charge with respect to the development being replaced, provided that the building permit for the replacement residential units or non-residential building or structure is issued not more than 5 years after the date of issuance of the demolition permit and provided that any dwelling units or non-residential floor area created in excess of what was demolished shall be subject to the development charge imposed under section 2.
- (4) No redevelopment credit shall be made in excess of the development charge payable for a redevelopment.

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.
- (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 to the County.
- (3) Notwithstanding subsections (1) and (2), an owner and the County of Lanark may enter into an agreement 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) If a development does not require a building permit, the development charge shall be calculated and paid in full at the rate in effect at the time the approval is granted as a condition of the earliest of any of the approvals required for the development and enumerated in Section 4 of this by-law.

10. **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.

11. **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 s.35 of the Act.
- (3) Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.

- (4) Where any unpaid development charges are collected as taxes under subsection (3), the monies so collected shall be credited to the development charge reserve fund or funds referred to in subsection (1).
- (5) The Treasurer of the County shall, commencing in 2011 for the 2010 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 O.Reg. 82/98, or any amending regulation.

12. 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 Council, the County 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:
 - (a) interest shall be calculated from the date on which the overpayment was collected to the day on which the refund is paid;
 - (b) interest shall be paid at the Bank of Canada rate in effect on the date of enactment of this by-law.

13. DEVELOPMENT CHARGE SCHEDULE INDEXING

The development charges referred to in Schedule "B" shall be adjusted annually, without amendment to this by-law, commencing on May 1, 2011, and annually thereafter on May 1, while this by-law is in force, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics".

14. BY-LAW ADMINISTRATION

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

15. 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 Under this By-law

Schedule B - Schedule of Development Charges

16. DATE BY-LAW EFFECTIVE

This by-law shall come into force and effect on the date after passage.

17. **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.

18. **SHORT TITLE**

This by-law may be cited as the "Lanark County Development Charge By-law"

**READ A FIRST, SECOND AND THIRD
TIME AND FINALLY PASSED THIS
___th DAY OF _____, 2010.**

WARDEN

CLERK

SCHEDULE "A"
(To Development Charges By-law 2010-XXX)
DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

1. Roads and Related
2. Ambulance (Emergency Services)
3. Homes for the Aged
4. General Government (Studies)

SCHEDULE "B"
SCHEDULE OF DEVELOPMENT CHARGES
(To Development Charges By-law 2010-XXX)

Service	Per Residential Dwelling Unit				Non-Residential (per sq.ft. of Gross Floor Area)
	Single Detached Dwelling or Semi- Detached Dwelling Unit	Apartment Dwelling Unit - Two Bedroom or Larger	Apartment Dwelling Unit - Bachelor or One Bedroom	Other Dwelling Unit	
Ambulance	\$37	\$26	\$16	\$29	0.01
Homes for the Aged	263	\$185	\$115	\$208	
Studies	21	\$15	\$9	\$17	0.02
Roads	284	\$200	\$124	\$225	0.26
Total	\$605	\$426	\$264	\$479	\$0.29

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