

# THE CORPORATION OF THE TOWNSHIP OF ST. CLAIR

## BY-LAW NUMBER 4 OF 2006

### A by-law to establish development charges for the Corporation of the Township of St. Clair

WHEREAS subsection 2(1) of the *Development Charges Act, 1997* c. 27 (hereinafter called "the Act") provides that the council of a municipality may pass By-laws for the imposition of development charges against land for increased capital costs required because of the need for services arising from development in the area to which the by-law applies;

AND WHEREAS the Council of The Corporation of the Township of St. Clair ("St. Clair Township") has given Notice in accordance with Section 12 of the *Development Charges Act, 1997*, of its intention to pass a by-law under Section 2 of the said Act;

AND WHEREAS the Council of St. Clair Township has heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charge proposal at a public meeting held on February 6, 2006;

AND WHEREAS the Council of St. Clair Township had before it a report entitled Development Charge Background Study dated January, 2006 prepared by Hemson Consulting Ltd, wherein it is indicated that the development of any land within St. Clair Township will increase the need for services as defined herein;

AND WHEREAS the Council of St. Clair Township on February 6, 2006 approved the applicable Development Charge Background Study, dated January, 2006, in which certain recommendations were made relating to the establishment of a development charge policy for St. Clair Township pursuant to the *Development Charges Act, 1997*;

AND WHEREAS the Council of St. Clair Township on February 6, 2006 determined that no additional public meeting was required.

**NOW THEREFORE THE COUNCIL OF ST. CLAIR TOWNSHIP ENACTS AS FOLLOWS:**

### DEFINITIONS

1. In this by-law,
  - (1) "Act" means the *Development Charges Act, S.O. 1997, c. 27*;
  - (2) "Accessory dwelling unit" means a dwelling which is part of and accessory to a permitted non-residential building;

- (3) "Administration Service" means any and all studies carried out by the municipality which are with respect to eligible services for which a development charge by-law may be imposed under the *Development Charges Act, 1997*.
- (4) "Bachelor dwelling unit" means a dwelling unit consisting of one bathroom and not more than two (2) habitable rooms designed to provide living, dining, sleeping and kitchen accomodation;
- (5) "Board of Education" means a board defined in s.s. 1(1) of the *Education Act*;
- (6) "Building Code Act" means the *Building Code Act, R.S.O. 1992, c.23*, as amended;
- (7) "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, lease, construct or improve facilities including,
    - (i) rolling stock with an estimated useful 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.P.-44*; and
  - (e) 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 under Section 10 of the Act;
  - (g) interest on money borrowed to pay for costs in (a) to (d);
- required for provision of services designated in this by-law within or outside the municipality;
- (8) "Council" means the Council of The Corporation of the Township of St. Clair;

- (9) "Development" means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 7 of this by-law and including the redevelopment of land or the redevelopment, expansion, extension or alteration of a use, building or structure except interior alterations to an existing building or structure which do not change or intensify the use of land;
- (10) "Development charge" means a charge imposed pursuant to this By-law;
- (11) "Duplex dwelling" shall mean a dwelling divided horizontally into two separate dwelling units, each of which has an independent entrance;
- (12) "Dwelling" shall mean a building or part thereof used or intended, adapted or designed to be used, occupied or capable of being occupied exclusively as a home, residence or sleeping place for one or more persons having a right to exclusive use thereof, but shall not include any travel trailer, hotel, motel, private garage, a home for the aged, nursing home, hospital, or living quarters for a caretaker, watchman, or other person or persons using such living quarters which are Accessory to a non-residential use;
- (13) "Dwelling unit" means a room or suite of rooms used, or designed or intended for use by, one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;
- (14) "Finished grade" means the median elevation between the highest and lowest point of the finished surface of the ground measured around the perimeter of the base of a building or structure exclusive of any embankment in lieu of steps;
- (15) "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;
- (16) "Local board" means a public utility commission, public library board, local board of health, or any other board, commission, committee or 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 of the municipality or any part or parts thereof;
- (17) "Local services" means those services or facilities which are under the jurisdiction of the municipality and are related to a plan of subdivision or within the area to which the plan relates, required as a condition of approval under s.51 of the *Planning Act*, or as a condition of approval under s.53 of the *Planning Act*;

- (18) "Multiple dwelling" means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;
- (19) "Municipality" means The Corporation of the Township of St. Clair;
- (20) "Non-residential uses" means a building or structure used for other than a residential use;
- (21) "Official plan" means the Official Plan of the County of Lambton and any amendments thereto;
- (22) "One family dwelling" means a detached dwelling on a lot containing only one (1) dwelling unit and occupied by not more than one (1) family;
- (23) "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;
- (24) "Planning Act" means the *Planning Act*, R.S.O. 1990, c.P.-13, as amended;
- (25) "Regulation" means any regulation made pursuant to the Act;
- (26) "Residential uses" means lands, buildings or structures or portions thereof used, or designed or intended for use as a home or residence of one or more individuals, and shall include a single detached dwelling, a semi-detached dwelling, a multiple dwelling, an apartment dwelling, and the residential portion of a mixed-use building or structure;
- (27) "Semi-detached dwelling" means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;
- (28) "Services" means services set out in Schedule "A" to this By-law, as applicable;
- (29) "Townhouse" means the whole of a dwelling divided vertically into three (3) or more separate dwelling units, each such dwelling unit having an independent entrance directly from outside the building;
- (30) "Townhouse stacked" shall mean the whole of a dwelling divided horizontally into two or more separate dwelling units and divided vertically into three or more separate dwelling units. Those dwelling units which are located above the lowest dwelling unit shall have an independent entrance whether directly from outside the building or from a common corridor;
- (31) "Triplex dwelling" shall mean the whole of a dwelling divided horizontally into three (3) separate dwelling units, each such dwelling unit having an

independent entrance from the outside or from a common hallway or stairway inside the building.

#### **CALCULATION OF DEVELOPMENT CHARGES**

- 2 (1) Subject to the provisions of this By-law, development charges against land shall be imposed, 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 residential building or the residential portion of a mixed-use building or structure in the municipality shall be calculated as the sum of the product of the number of dwelling units of each type multiplied by the corresponding total amount for such dwelling unit type, as set out in Schedule "B".
- (3) Council hereby determines that the development or redevelopment of land, buildings or structures for residential uses will require the provision, enlargement or expansion of the services referenced in Schedule "A".

#### **PHASE-IN OF DEVELOPMENT CHARGES**

3. The development charges imposed pursuant to this by-law are not being phased-in and are payable in full, subject to the exemptions herein, from the effective date of this by-law.

#### **APPLICABLE LANDS**

4. (1) Subject to Sections 5 and 6, this by-law applies to all lands in the municipality, whether or not the land or use is exempt from taxation under Section 3 of the *Assessment Act*, R.S.O. 1990, c.A.-31.
- (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 thereof.
  - (c) non-residential uses.

#### **RULES WITH RESPECT TO EXEMPTIONS FOR INTENSIFICATION OF EXISTING HOUSING**

5. (1) Notwithstanding Section 4 above, no development charge shall be imposed with respect to developments or portions of developments as follows:
  - (a) the enlargement of an existing residential dwelling unit;

- (b) the creation of one or two additional residential dwelling units in an existing single detached dwelling where the total gross floor area of each additional unit does not exceed the gross floor area of the existing dwelling unit;
  - (c) the creation of one additional dwelling unit in any other existing residential building provided the gross floor area of the additional unit does not exceed the smallest existing dwelling unit already in the building.
- (2) Notwithstanding subsection 5(1)(b), development charges shall be calculated and collected in accordance with Schedule "B" as applicable, 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 single detached dwelling unit.
- (3) Notwithstanding subsection 5(1)(c), development charges shall be calculated and collected in accordance with Schedule "B" as applicable, where the additional dwelling unit has a residential gross floor area greater than,
- (a) in the case of semi-detached house or multiple dwelling, the gross floor area of the existing dwelling unit, and
  - (b) in the case of any other residential building, the residential gross floor area of the smallest existing dwelling unit.

#### **DEVELOPMENT CHARGES IMPOSED**

6. (1) Subject to subsection (2), development charges shall be calculated and collected in accordance with the provisions of this by-law and be imposed on land to be developed for residential use, where, the development requires,
- (a) the passing of a zoning by-law or an amendment thereto under Section 34 of the *Planning Act*;
  - (b) the approval of a minor variance under Section 45 of the *Planning Act*;
  - (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
  - (d) the approval of a plan of subdivision under Section 51 of the *Planning Act*;
  - (e) a consent under Section 53 of the *Planning Act*;
  - (f) the approval of a description under Section 50 of the *Condominium Act*, R.S.O. 1990, c.C.-26; or

- (g) 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 to
- (a) local services installed or paid for by the owner within a plan of subdivision or within the area to which the plan relates, as a condition of approval under Section 51 of the *Planning Act*;
  - (b) local services installed or paid for by the owner as a condition of approval under Section 53 of the *Planning Act*.

### **LOCAL SERVICE INSTALLATION**

7. Nothing in this by-law prevents Council from requiring, as a condition of an agreement under Section 51 or 53 of the *Planning Act*, that the owner, at his or her own expense, shall install or pay for such local services, within the Plan of Subdivision or within the area to which the plan relates, as Council may require.

### **MULTIPLE CHARGES**

8. (1) Where two or more of the actions described in subsection 7(1) 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 provisions of this by-law.
- (2) Notwithstanding subsection (1), if two or more of the actions described in subsection 7(1) 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" or Schedule "B", as applicable, an additional development charge on the additional residential units shall be calculated and collected in accordance with the provisions of this by-law.

### **SERVICES IN LIEU**

9. (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 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. 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 subsection (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 any development charge reserve fund.

#### **RULES WITH RESPECT TO RE-DEVELOPMENT**

10. In the case of the demolition of all or part of a residential building or structure:
  - (1) a credit shall be allowed, provided that the land was improved by occupied structures within the five years prior to the issuance of the building permit, and the building permit has been issued for the development or redevelopment within five years from the date the demolition permit has been issued; and
  - (2) if a development or redevelopment involves the demolition of and replacement of a building or structure, a credit shall be allowed equivalent to the number of dwelling units demolished multiplied by the applicable residential development charge in place at the time the development charge is payable.
11. A credit can, in no case, exceed the amount of the development charge that would otherwise be payable, and no credit is available if the existing land use is exempt under this by-law.

#### **TIMING OF CALCULATION AND PAYMENT**

12. (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 under 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.
- (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 funds referred to in subsection (1).

### **RESERVE FUNDS**

13. (1) Monies received from payment of development charges under this by-law shall be maintained in separate reserve funds as per the services set out in Schedule "A".
- (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) Council directs the Treasurer of the Municipality to divide the reserve funds created hereunto into separate subaccounts in accordance with the service sub-categories set out in Schedule "A" to which the development charge payments shall be credited in accordance with the amounts shown, plus interest earned thereon.
- (4) The Treasurer of the Municipality shall, in each year commencing in 2006 for the 2005 year, furnish to Council a statement in respect of the reserve funds established hereunder for the prior year, containing the information set out in Section 12 of O.Reg. 82/98.

### **BY-LAW AMENDMENT OR APPEAL**

14. (1) Where this by-law or any development charge prescribed thereunder is amended or repealed either by order of the Ontario Municipal Board or by resolution of the Municipal Council, the Municipal 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 with interest to be calculated as follows:
- (a) Interest shall be calculated from the date on which the overpayment was collected to the date on which the refund is paid;
- (b) The Bank of Canada interest rate in effect on the date of enactment of this by-law shall be used.
- (3) Refunds that are required to be paid under subsection (1) shall include the interest owed under this section.

### **FRONT ENDING AGREEMENTS**

15. Council may, from time to time and at any time, enter into a Front Ending Agreement as authorized by Section 44 of the Act.
- (1) "benefitting area" means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service.

### **AGREEMENTS REGARDING PAYMENT OF DEVELOPMENT CHARGES**

16. (1) Nothing in this by-law prevents Council from entering into an agreement with an Owner providing for the payment of a Development Charge before the date otherwise required for payment hereunder.
- (2) Where an Owner has entered into an agreement under this Section, the Owner shall only be required to pay the Development Charge in effect on the date it is payable under the agreement.

### **COMPLAINTS ABOUT DEVELOPMENT CHARGES**

17. (1) An owner may complain in writing to the Council in respect of the development charge imposed by the Coporation that,
- (a) the amount of the development charge was incorrectly determined;
- (b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined;
- (c) there was an error in the application of this by-law.

#### **When complaint to be made**

- (2) A complaint may not be made under Section 26 later than ninety (90) days after the day the development charge, or any part of it, is payable.

#### **Particulars of Complaint**

- (3) The complaint must be in writing, must state the complainant's name, the address where notices can be given to the complainant and the reasons for the complaint.

#### **Hearing**

- (4) The Council shall hold a hearing into the complaint and shall give the complainant an opportunity to make representations at the hearing.

### **Notice of Hearing**

- (5) The Clerk of the municipality shall mail a notice of the hearing to the complainant at least fourteen (14) days before the hearing.

### **Determination by Council**

- (6) After hearing the evidence and submissions of the complainant, the Council shall as soon as practicable make a recommendation on the merits of the complaint and Council may,
- (a) dismiss the complaint; or
  - (b) rectify any incorrect determination or error that was the subject of the complaint.

### **Notice of Decision**

- (7) The Clerk of the municipality shall mail to the complainant a notice of the Council's decision, and of the last day for appealing the decision, which shall be the day that is forty (40) days after the day the decision is made. The notice required under this section must be mailed not later than twenty (20) days after the day the council's decision is made.

### **BY-LAW INDEXING**

18. The development charges set out in Schedule "B" of this by-law may be adjusted annually as of the date the by-law comes into force, without amendment to this by-law, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics, catalogue 62-007".

### **RESERVE FUNDS UNDER THE OLD DEVELOPMENT CHARGES BY-LAW**

19. Reserve funds established under Development Charges By-law 9 of 1992 and the Old Act shall be subject to Section 63 of the Act.

### **EARLY PAYMENT AGREEMENTS UNDER THE OLD DEVELOPMENT CHARGES BY-LAW**

20. Early payment agreements entered into under Development Charges By-law 14 of 2000 and By-law 213 of 1992 as amended by By-law 111 of 1996, and the Old Act shall be subject to Section 67 of the Act.

### **SEVERABILITY**

21. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction to be ultra vires, such provision, or part thereof, shall be

deemed to be severed, and the remaining portion of such provision and all other provisions of this by-law shall remain in full force and effect.

#### **HEADINGS FOR REFERENCE ONLY**

22. The headings inserted in this by-law are for convenience of reference only and shall not affect the construction of interpretation of this by-law.

#### **BY-LAW REGISTRATION**

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

#### **BY-LAW ADMINISTRATION**

24. This by-law shall be administered by the Municipal Council.

#### **SCHEDULES TO THE BY-LAW**

25. The following Schedules to this by-law form an integral part of this by-law:

|                |   |
|----------------|---|
| Schedule "A" - | Schedule of Municipal Services  |
| Schedule "B" - | Schedule of Residential Development Charges   |
| Schedule "C" - | Schedule of "Corunna Urban Area" within the Township within which Development Charges are to be levied              |
| Schedule "D" - | Schedule of "Courtright/Mooretown Urban Area" within the Township within which Development Charges are to be levied |

#### **DATE BY-LAW EFFECTIVE**

26. This By-law shall come into force and effect on the day following the day of its approval by Council.

#### **SHORT TITLE**

23. This by-law may be cited as the "St. Clair Township Development Charge By-law 4, 2006."

#### **TERM OF BY-LAW**

24. This By-law shall continue in force and effect for a term not to exceed five (5) years from the date of its coming into force, unless it is repealed at an earlier date by subsequent by-law.

Read and passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

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MAYOR

CLERK

ST. CLAIR TOWNSHIP  
BY-LAW NO. 4 of 2006

SCHEDULE "A"  
DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

Services for which development charges are applicable in the area shown as "Corunna Urban Area" on Schedule "C" attached hereunto and forming part of this By-law:

1. Fire Protection
2. Indoor Recreation
3. Park Development and Facilities
4. Public Works
5. General Government
6. Roads
7. Wastewater Treatment
8. Water Distribution

Services for which development charges are applicable in the area shown as "Courtright/Mooretown Urban Area" on Schedule "D" attached hereunto and forming part of this By-law:

1. Fire Protection
2. Indoor Recreation
3. Park Development and Facilities
4. Public Works
5. General Government
6. Wastewater Treatment

ST. CLAIR TOWNSHIP  
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SCHEDULE "B"  
SCHEDULE OF RESIDENTIAL DEVELOPMENT CHARGES

| Service                         | CHARGE (all units) |                          |                          |
|---------------------------------|--------------------|--------------------------|--------------------------|
|                                 | CORUNNA            | COURTRIGHT/<br>MOORETOWN | REMAINDER OF<br>TOWNSHIP |
| FIRE PROTECTION                 | \$16               | \$16                     | \$0                      |
| INDOOR RECREATION               | \$0                | \$0                      | \$0                      |
| PARK DEVELOPMENT AND FACILITIES | \$20               | \$20                     | \$0                      |
| PUBLIC WORKS                    | \$0                | \$0                      | \$0                      |
| GENERAL GOVERNMENT              | \$7                | \$7                      | \$0                      |
| ROADS                           | \$207              | \$0                      | \$0                      |
| WASTEWATER TREATMENT            | \$1,473            | \$1,707                  | \$0                      |
| WATER DISTRIBUTION              | \$27               | \$0                      | \$0                      |
| <b>TOTALCHARGE PER UNIT</b>     | <b>\$1,750</b>     | <b>\$1,750</b>           | <b>\$0</b>               |

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SCHEDULE "C"  
SCHEDULE OF "CORUNNA URBAN AREA" WITHIN THE TOWNSHIP WITHIN  
WHICH DEVELOPMENT CHARGES ARE TO BE LEVIED



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SCHEDULE "D"

SCHEDULE OF "COURTRIGHT/MOORETOWN URBAN AREA" WITHIN THE  
TOWNSHIP WITHIN WHICH DEVELOPMENT CHARGES ARE TO BE LEVIED