

THE CORPORATION OF THE TOWNSHIP OF WILMOT

BY-LAW NUMBER 2014-34

A BY-LAW FOR THE IMPOSITION OF DEVELOPMENT CHARGES

WHEREAS the Township of Wilmot 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 Wilmot;

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 Wilmot 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 Wilmot has given notice of and held a public meeting on the 11th day of August, 2014 in accordance with the Act and the regulations thereto;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WILMOT 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;

"accessory use" means where used to describe a use, building, or structure that the use, building or structure is naturally or normally incidental, subordinate in purpose of floor area or both, and exclusively devoted to a principal use, building or structure;

"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;

“benefiting area” means an area defined by map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;

“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 Municipal 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 township or a local board thereof directly or by others on behalf of and as authorized by the Township 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 Township, 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;

“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 Township of Wilmot or any part or parts thereof;;

“local services” means those services, facilities or things which are under the jurisdiction of the Township of Wilmot 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;

“lodging house” means a dwelling or residential building containing one or more lodging units designated to accommodate four or more residents. These residents may share common areas of the dwelling other than the lodging units, and do not appear to function as a household. This shall not include a group home, hospital or any residential care facility licensed, approved or supervised under any general or specific Act, or a hotel or motel. This shall include but not be limited to student residences, convents, tourist homes and nursing homes;

“lodging unit” means a room or set of rooms located in a lodging house designed to be used for sleeping and living accommodation which:

- a) is designed for the exclusive use of the resident or residents of the unit;
- b) is not normally accessible to persons other than the residents or residents of the unit; and
- c) may contain either a bathroom or kitchen but does not contain both for the exclusive use of the resident or residents of the units.

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

“Township” means the Corporation of the Township of Wilmot;

“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 Town, 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 Township relative to the provision of municipal services to specified land within the Township;

“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 Wilmot; and

2. DESIGNATION OF SERVICES

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

- (a) Transportation Services;
- (b) Fire Protection Services;
- (c) Parks and Recreation Services;
- (d) Library Services;
- (e) Administration Services;
- (f) Wastewater Services; and
- (g) 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 Wilmot 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 Township or a local board thereof;
- (b) a board of education; or
- (c) the Corporation of the Region of Waterloo or a local board thereof;

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

- (a) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and
- (b) 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:

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

3.9 Other Exemptions:

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

- (a) Lands, buildings or structures used or to be used for a place of worship or for the purposes of a churchyard or cemetery exempt from taxation under the *Assessment Act*;
- (b) A home occupation;
- (c) Development creating or adding an accessory use or accessory structure;
- (d) Temporary use permitted under a zoning By-law under Section 39 of the *Planning Act*;
- (e) Non-residential farm buildings constructed for bona fide farm uses.

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.

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 60 months 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 3.10 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 3.11, 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 imposed under this By-law are calculated, payable, and collected upon issuance of a building permit for the development.

3.14 Despite section 3.14, Council from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable, in accordance with section 27 of the Act.

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 without amendment to this By-law, on the anniversary date of the By-law, in accordance with the second 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 subsection 2.1

Schedule B - Residential and Non-Residential Schedule of 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. DATE BY-LAW IN FORCE

9.1 This By-law shall come into effect at 12:01 AM on September 1, 2014.

10. DATE BY-LAW EXPIRES

10.1 This By-law will expire at 12:01 AM on August 31, 2019 unless it is repealed by Council at an earlier date.

READ a first and second time in Open Council this 25th day of August, 2014.

READ a third time and finally passed in Open Council this 25th day of August, 2014.

Mayor

Clerk

SCHEDULE "A"
TO BY-LAW 2014-34
COMPONENTS OF SERVICES DESIGNATED IN SUBSECTION 2.1

100% Eligible Services

- Transportation Services
 - Roads
 - Bridges and Culverts
 - Public Works Facilities
 - Public Works Rolling Stock
- Fire Protection Services
 - Fire Stations
 - Fire Vehicles
 - Fire Small Equipment and Gear

90% Eligible Services

- Parks and Recreation Services
 - Parkland Development
 - Vehicles and Equipment
 - Indoor Recreation Facilities
- Library Services
 - Library Facilities
- Administrative Services
 - Growth-related Studies

Municipal Water and Wastewater Service Area (New Hamburg and Baden)

- Wastewater Services
 - Wastewater Systems
- Water Services
 - Water Systems

SCHEDULE "B"
TO BY-LAW 2014-34
SCHEDULE OF DEVELOPMENT CHARGES

Service	RESIDENTIAL					INDUSTRIAL	COMM/INST.
	Single and Semi-Detached Dwelling	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Other Multiples	Lodging Units	(per ft ² of Gross Floor Area)	(per ft ² of Gross Floor Area)
Municipal Wide Services:							
Transportation Services	\$ 2,138	\$ 1,261	\$ 862	\$ 1,696	\$ 656	\$ 0.59	\$ 1.32
Fire Protection Services	\$ 158	\$ 93	\$ 64	\$ 125	\$ 48	\$ 0.07	\$ 0.05
Parks and Recreation Services	\$ 2,081	\$ 1,228	\$ 839	\$ 1,651	\$ 638	\$ 0.13	\$ 0.29
Library Services	\$ 57	\$ 35	\$ 24	\$ 46	\$ 17	\$ 0.00	\$ 0.01
Administration - Studies	\$ 94	\$ 55	\$ 38	\$ 75	\$ 29	\$ 0.03	\$ 0.06
Total Municipal Wide Services	\$ 4,528	\$ 2,672	\$ 1,827	\$ 3,593	\$ 1,388	\$ 0.82	\$ 1.72
Urban Services							
Wastewater Services	1,897	1,119	765	1,505	\$ 582	\$ 0.53	\$ 1.17
Water Services	318	188	128	252	\$ 98	\$ 0.09	\$ 0.20
Total Urban Services	2,215	1,307	893	1,757	680	\$ 0.61	\$ 1.37
GRAND TOTAL RURAL AREA	4,528	2,672	1,827	3,593	1,388	\$ 0.82	\$ 1.72
GRAND TOTAL URBAN AREA	6,743	3,979	2,720	5,350	2,068	\$ 1.44	\$ 3.08