

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

BY-LAW NUMBER 2014-61

**BEING A BY-LAW FOR THE IMPOSITION
OF DEVELOPMENT CHARGE**

WHEREAS the Township of West Lincoln 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 West Lincoln;

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 West Lincoln 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 West Lincoln has given notice of and held a public meeting on the 16th day of July 2014 in accordance with the Act and the regulations thereto;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN 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 a use of land, building, or structures, which is incidental and subordinate to the principal use of the lands, buildings or structures;

"agricultural use" means use or intended use for bona fide farming purposes:

a) including (but not limited to):

- (i) cultivation of crops, whether on open land or in greenhouses, including (but not limited to) fruit, vegetables, herbs, grains, field crops, sod, trees, shrubs, flowers, and ornamental plants;
- (ii) raising of animals, including (but not limited to) cattle, horses, pigs, poultry, livestock, fish; and
- (iii) animal husbandry, dairying, equestrian activities, horticulture, fallowing, pasturing, and market gardening;

b) but excluding:

- (i) retail sales activities; including but not limited to restaurants, banquet facilities, hospitality facilities and gift shops.

“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, institutional or agricultural uses as defined herein, but does include hotels, motels, motor inns and boarding, lodging and rooming houses;

“Council” means the Council of the Township of West Lincoln;

“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;

“grade” means the average level of finished ground adjoining a building or structure at all exterior walls;

“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 use or intended use or designed for or in connection with purposes:

a) including (but not limited to):

- (i) manufacturing, producing or processing of raw goods or materials;
- (ii) warehousing or distribution in connection with manufacturing, producing or processing of raw goods or materials, including but not limited to, distribution centres and truck terminals;
- (iii) research or development in connection with manufacturing, producing or processing of raw goods or materials;
- (iv) storage of anything used or produced in manufacturing producing or processing by the manufacturer, producer or processor at the site where the manufacturing, producing or processing takes place;
- (v) office or administrative use accessory to the above mentioned activities;

- (vi) sale of commodities to the general public, accessory to the above-mentioned activities;
- b) but excluding:
 - (i) office or administrative user where a building or structure is used exclusively for such use, and is not attached to any building used for the purposes set out in paragraph (a) above;
 - (ii) retail sales activities;

“Institutional use” means use or intended use by a charity registered under the *Income Tax Act*;

“Institutional wind turbines” means any wind energy system, comprising one of more turbines, with a combined nameplate generating capacity greater than 500 kilowatts and a height greater than 50 meters, that converts energy into electricity, and consists of a wind turbine, a tower, and associated control conversion electronics. A wind turbine and energy system may be connected to the electricity grid in circuits at a substation to provide electricity off-site for sale to an electrical utility or other intermediary.

“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 West Lincoln 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 West Lincoln;

“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;

“rural area” means those areas within the municipality not shown as being within the urban boundary in schedule C of this by-law;

“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;

“services in lieu” means those services specified in an agreement made under Section 4 of this by-law;

“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 West Lincoln; and

“urban serviced area” means the area within the municipality shown as being within the urban boundary in Schedule C of this by-law;

“Zoning By-Law” means the Zoning By-Law of the Township of West Lincoln 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) Storm Sewer Services (urban serviced area);
 - h) Sanitary Sewer Services (urban serviced area);
 - i) Water Services (urban serviced area)
 - j) Storm Sewer (Smithville Industrial Park Area)
 - k) Sanitary Sewer (Smithville Industrial Park Area)
 - l) Water Services (Smithville Industrial Park Area)
- 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 West Lincoln 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 or 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
- 3.8.3 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:

- a) A non-residential farm building for agricultural use;
- b) A place of worship;
- c) Buildings and structures owned by and used in connection with and for the purposes of a seminary of learning maintained for philanthropic, religious or educational purposes, the whole profits from which are devoted or applied for such purposes.

Amount of Charges

3.10 Residential

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 (or per acre for Smithville Industrial Park Area), and calculated with respect to each of the services according to the type of residential use.

3.11 Non-Residential

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 (or per acre for Smithville Industrial Park Area).

3.12 Industrial Wind Turbines

Notwithstanding s.3.10 and s.3.11, the development charges described in Schedule B to this by-law shall be imposed on industrial wind turbines, and calculated at the single-detached and semi-detached dwelling rate with respect to roads and related, fire protection and administration services.

3.13 Reduction of Development Charges for Redevelopment

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;

- 3.14 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.

Time of Payment of Development Charges

- 3.15 Development charges shall be calculated and payable in money or by provision of service 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.

- 3.16 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. SERVICES IN LIEU

- 4.1 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 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. 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.

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

- 4.3 The credit provided for in Subsection (2) shall not be charged to any development charge reserve fund prescribed in this by-law.

5. LOCAL SERVICE INSTALLATION

Nothing in this by-law prevents Council from requiring, as a condition of an agreement under Sections 40, 51 or 53 of the *Planning Act*, that the owner, at his or her own expense, shall install such local services within the plan of subdivision, and otherwise, as Council may require, that the owner pay for, or install local services within the area to which the plan relates.

6. RESERVE FUNDS

- 6.1 Monies received from payment of development charges shall be maintained in separate reserve funds as follows: roads and related and fire protection; water; sanitary sewer; storm water drainage; discounted services (library, administration, parks and recreation); and the Smithville Industrial Park area sanitary, water and storm sewer services.

- 6.2 Monies received for the payment of development charges shall be used only in accordance with the provisions of a s.35 of the Act.

- 6.3 Council directs the Municipal Treasurer to divide the reserve funds created hereunder into the separate sub-accounts in accordance with the service 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.

- 6.4 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.
- 6.5 Where any unpaid development charges are collected as taxes under subsection (6.4), the monies so collected shall be credited to the development charge reserve fund or funds referred to in subsection (6.1).
- 6.6 The Treasurer of the Municipality shall furnish to Council an annual 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.

7. BY-LAW AMENDMENT OR REPEAL

- 7.1 Where this by-law or any development charge prescribed thereunder is amended or repealed by order of the Ontario Municipal Board or by resolution of the Municipal Council, the Municipal Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal.
- 7.2 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.
- 7.3 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) the refund shall include the interest owed under this section;
 - c) interest shall be paid at the Bank of Canada rate in effect on the date of enactment of this by-law.

8. INDEXING

- 8.1 Development charges imposed pursuant to this By-law shall be adjusted annually in September without amendment to this By-law, in accordance with the first quarter of the prescribed index in the Act.

9. SCHEDULES

- 9.1 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
 - Schedule C - Urban Serviced Area
 - Schedule D - Area within which Smithville Industrial Park Area Area-specific Development Charge Applies – Storm Sewer
 - Schedule E - Area within which Smithville Industrial Park Area Area-specific Development Charge Applies – Sanitary Sewer
 - Schedule F - Area within which Smithville Industrial Park Area Area-specific Development Charge Applies –Water Services

10. CONFLICTS

- 10.1 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.
- 10.2 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.

11. SEVERABILITY

- 11.1 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.

12. DATE BY-LAW IN FORCE

- 12.1 This By-law shall come into effect on July 19, 2014.

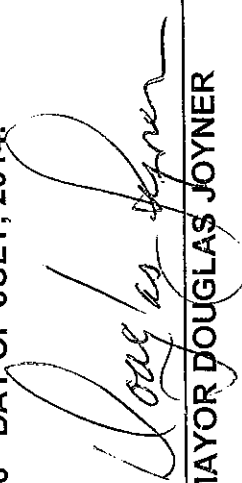
13. DATE BY-LAW EXPIRES

- 13.1 This By-law will expire on July 19, 2019 unless it is repealed by Council at an earlier date.

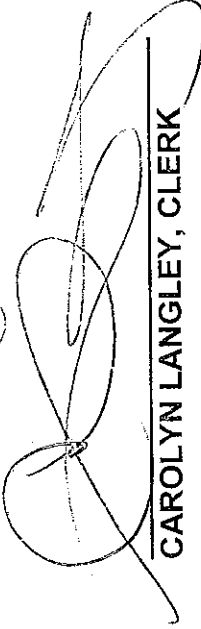
14. EXISTING DEVELOPMENT CHARGE BY-LAW REPEAL

- 14.1 By-law 2009-63 and 2013-86 are hereby repealed as of the date and time of this by-law coming into effect.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 16th DAY OF JULY, 2014.



MAYOR DOUGLAS JOYNER



CAROLYN LANGLEY, CLERK

SCHEDULE "A" TO BY-LAW 2014 - 61

COMPONENTS OF SERVICES DESIGNATED IN SUBSECTION 2.1 TOWNSHIP-

WIDE SERVICES

100% Eligible Services

Roads and Related
Roads (incl. streetlights, sidewalks)
Depots and Domes
Public Works Rolling Stock

Fire Protection Services
Fire Facilities
Fire Vehicles
Fire Small Equipment and Gear

90% Eligible Services

Outdoor Recreation Services
Parkland Development, Amenities & Trails
Parks Vehicles and Equipment

Indoor Recreation Services
Recreation Facilities

Library Services
Library Facilities
Library Materials

Administration Services
Growth Related Studies
Facilities (borrowing costs)

URBAN SERVICED AREA SERVICES

Storm Water Drainage and Control Services
Storm Sewers

Wastewater Services
Sanitary Sewers

Water Services
Distribution Systems

SMITHVILLE INDUSTRIAL PARK AREA SERVICES

Storm Sewers
Sanitary Sewers
Water Services