

THE CORPORATION OF LOYALIST TOWNSHIP**BY-LAW NUMBER 2005-68****A BY-LAW TO ESTABLISH DEVELOPMENT CHARGES
FOR THE CORPORATION OF LOYALIST TOWNSHIP**

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 Loyalist Township ("Loyalist 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 Loyalist 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 June 13, 2005;

AND WHEREAS the Council of Loyalist Township had before it a report entitled Development Charge Background Study dated May, 2005 prepared by Hemson Consulting Ltd, as amended and dated June, 2005, wherein it is indicated that the development of any land within Loyalist Township will increase the need for services as defined herein;

AND WHEREAS the Council of Loyalist Township on June 27, 2005 approved the applicable Development Charge Background Study, dated May 17, 2005, as amended and dated June, 2005, in which certain recommendations were made relating to the establishment of a development charge policy for the Loyalist Township pursuant to the *Development Charges Act, 1997*;

AND WHEREAS the Council of Loyalist Township on June 27, 2005 determined that no additional public meeting was required.

NOW THEREFORE THE COUNCIL OF LOYALIST TOWNSHIP ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law,
 - (1) "Act" means the *Development Charges Act, S.O. 1997, c. 27*;
 - (2) "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*.
 - (3) "Apartment dwelling" means any dwelling unit within a building containing more than four dwelling units where the units are connected by an interior corridor;
 - (4) "Bedroom" means a habitable room larger than seven square metres, including a den, study, or other similar area, but does not include a living room, dining room or kitchen;
 - (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, 1992, S.O. 1992, chapter 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) "Commercial use" means the use of land, structures, or building for the purpose of buying and selling of commodities and supplying of services as distinguished from manufacturing or assembling of goods, also as distinguished from other purposes such as warehousing, or an open storage yard;
- (9) "Council" means the Council of The Corporation of Loyalist Township;

- (10) "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;
- (11) "Development charge" means a charge imposed pursuant to this By-law;
- (12) "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;
- (13) "Farm building" means that part of a bona fide farm operation encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use;
- (14) "Grade" means the average level of finished ground adjoining a building or structure at all exterior walls;
- (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) "Industrial use" means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of 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;

- (17) "Institutional" means lands, buildings or structures used or designed or intended for use by an organized body, society, health care organization or religious group and shall include, without limiting the generality of the foregoing, places of worship, senior's residences and special care facilities;
- (18) "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*;
- (19) "Multiple dwelling" means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;
- (20) "Municipality" means The Corporation of Loyalist Township;
- (21) "Non-residential uses" means a building or structure used for commercial, industrial or institutional use;
- (22) "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;
- (23) "Planning Act" means the *Planning Act*, R.S.O. 1990, c.P.-13, as amended;
- (24) "Regulation" means any regulation made pursuant to the Act;
- (25) "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;

- (26) "Semi-detached dwelling" means a building divided vertically or horizontally into two dwelling units each of which has a separate entrance and access to grade;
- (27) "Services" means services set out in Schedule "A" to this By-law, as applicable;
- (28) "Single detached dwelling" means a completely detached building containing only one dwelling unit.

CALCULATION OF DEVELOPMENT CHARGES

- 2. (1) Council hereby determines that the development of land for residential use buildings, non-residential use buildings and mixed-use buildings in the Municipality will require the provision, enlargement or expansion of the services referenced in Schedule "A".
- (2) Subject to the provisions of this By-law, development charges shall be imposed, calculated and collected in accordance with the base rates set out in Schedule "B" and Schedule "C";
- (3) The development charge for the development of a residential use building or the residential use portion of a mixed-use building or structure in the municipality shall be calculated by multiplying the number of dwelling units of each type by the corresponding residential charge for the dwelling unit type, as set out in Schedule "B".
- (4) The development charge for the development of a non-residential use building, and for the development of the non-residential use components of a mixed-use building, shall be calculated by multiplying the gross floor area of the development by the corresponding rate, as set out in Schedule "C".

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, 6 and 7, 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) a place of worship classified as exempt from taxation under Section 3 of the *Assessment Act*;
 - (d) a non-residential farm building;
 - (e) land used as public hospitals;
 - (f) land owned by a college or university and used only for the purposes of a college or university;
 - (g) lands deeded for highway purposes to the Ontario Ministry of Transportation;
 - (h) land owned by an agricultural society and used only for the purposes of an agricultural society; and
 - (i) the development of land by the installation of a mobile temporary sales trailer..
- (3) This by-law shall not apply to land within Registered Plan No. 1081.
- (4) The Municipality may exempt lands from this by-law where the lands are designated in the Municipality's Official Plan as part of a Community

Improvement Area and the Municipality has implemented a Community Improvement Plan by by-law, which includes the said lands.

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; or
 - (c) the creation of one additional dwelling unit in any other type of existing residential use building provided the gross floor area of the additional unit does not exceed the gross floor area of 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 sum of the gross floor area of the additional one or two dwelling units is greater than the 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 gross floor area of the additional dwelling unit is 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 type of residential use building, the gross floor area of the smallest existing dwelling unit.

RULES WITH RESPECT EXEMPTION RELATING TO INDUSTRIAL ENLARGEMENT

- 6. (1) For the purpose of this Section,
"existing industrial building" means a building used for or in connection with,
 - (a) manufacturing, producing, processing, storing or distributing something,
 - (b) research or development in connection with manufacturing, producing or processing something,
 - (c) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place,
 - (d) office or administrative purposes, if they are,
 - (i) carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - (ii) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution.
- (2) If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge payable shall be as follows:
 - (a) if the gross floor area is enlarged by 50 per cent or less, the development charge for the enlargement shall be zero; and
 - (b) if the gross floor area is enlarged by more than 50 per cent, the development charge shall be calculated based on the amount of the enlargement that exceeds 50 per cent of the gross floor area of the building before the enlargement.
- (3) In this Section and for greater certainty in applying the exemption herein:

- (a) the gross floor area of an existing industrial building shall be determined as of the date this By-law comes into force; and
 - (b) the gross floor area of an existing industrial building is enlarged where there is a *bona fide* increase in the size of the existing building and the enlarged area is attached to existing industrial building and is used for or in connection with an industrial purpose as set out in Subsection 1(1) of O. Reg. 82/98.
- (4) Without limiting the generality of the foregoing, the exemption in this Section shall not apply where the enlarged area is attached to the existing industrial building by means only of a tunnel, bridge, canopy, corridor or other passageway, or through a shared below grade connection such as a service tunnel, foundation, footing or a parking facility.

DEVELOPMENT CHARGES IMPOSED

7. (1) Every Owner of land in the Municipality shall pay to the Municipality a development charge as calculated in this by-law whenever the Owner's lands are developed and the development requires an approval described in (2) below.
- (2) Subject to subsection (3), 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.
- (3) 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

8. 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

9. (1) Where two or more of the actions described in subsection 7(2) 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(2) 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 shall be calculated and collected in accordance with the provisions of this by-law.

SERVICES IN LIEU

10. (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 that 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

11. Where all or part of a residential use, non-residential use or mixed-use building or structure is demolished or redeveloped, development charges otherwise applicable shall be reduced in accordance with section 12 below if:
 1. the building or structure was occupied within five years prior to the issuance of a building permit for redevelopment of the lands; and
 2. in the case where the building or structure is demolished, a demolition permit has been issued within five years prior to the issuance of a building permit for redevelopment of the lands.

12. Where a residential use, non-residential use or mixed-use building or structure qualifies for a reduction in development charges pursuant to section 11 above, the amount of the reduction shall be equivalent to:
 - (1) the number of residential dwelling units demolished or redeveloped multiplied by the applicable residential development charge under this by-law, and
 - (2) the gross floor area of the non-residential use building or portion thereof demolished or redeveloped multiplied by the applicable non-residential development charge under this by-law.

13. No credit shall exceed the amount of the development charge that would otherwise be payable, and no credit shall be available if the existing land use is exempt under this by-law.

TIMING OF CALCULATION AND PAYMENT

14. (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 for a building or structure on the land to which a development charge applies.
- (2) Where development charges apply to land for which a building permit is required, the building permit shall not be issued until the development charge has been paid in full.

RESERVE FUNDS

15. (1) Monies received from payment of development charges under this by-law shall be maintained in the following two separate reserve funds:

Transportation (roads and related) and Emergency Services
Parks and Recreation, General Government and Transportation (buildings, fleet and equipment).
- (2) The reserve funds created by operation of this by-law shall be maintained in separate sub accounts in accordance with the service sub-categories set out in Schedule "A" and development charge payments shall be credited to each sub account in accordance with the amounts shown in Schedule "B", plus interest earned thereon
- (3) Monies received for the payment of development charges shall be used only in accordance with the provisions of Section 35 of the Act.
- (4) Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll of the property in respect of which it was calculated and shall be collected as taxes.

- (5) Where any unpaid development charges are collected as taxes under subsection (4), the monies so collected shall be credited to the development charge reserve funds referred to in subsection (2).
- (6) 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

16. (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.

BY-LAW INDEXING

17. The development charges set out in Schedule "B" and Schedule "C" to this by-law may be adjusted annually on January 1st each year commencing on January 1, 2006, without amendment to this by-law, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics".

SEVERABILITY

18. 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

19. 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

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

BY-LAW ADMINISTRATION

21. This by-law shall be administered by the Township Treasurer.

SCHEDULES TO THE BY-LAW

22. 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 Non-Residential Development Charges


DATE BY-LAW EFFECTIVE

23. This By-law shall come into force and effect on the day it is passed.

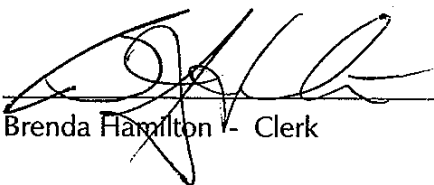
SHORT TITLE

24. This by-law may be cited as the "Loyalist Township Development Charge By-law, 2005."

Enacted and Passed by the Council this 27th day of June, 2005.



Clayton McEwen - Reeve



Brenda Hamilton - Clerk

LOYALIST TOWNSHIP
BY-LAW NO. 2005-68

SCHEDULE "A"
DESIGNATED MUNICIPAL SERVICES

1. Emergency Services
2. Parks and Recreation
3. Transportation – Buildings, Fleet and Equipment
4. General Government
5. Transportation - Roads and Related

**LOYALIST TOWNSHIP
BY-LAW NO. 2005-68**

**SCHEDULE "B"
SCHEDULE OF RESIDENTIAL DEVELOPMENT CHARGES**

| | Residential Charge By Unit Type | | | |
|--|---------------------------------|--------------------|--------------------|--------------------|
| | Singles & Semis | Other Multiples | Apartments | |
| | | | 2 Bedrooms + | Bach & 1 Bdrm |
| EMERGENCY SERVICES | \$ 475.60 | \$ 410.00 | \$ 328.00 | \$ 262.40 |
| PARKS & RECREATION | \$ 806.20 | \$ 695.00 | \$ 556.00 | \$ 444.80 |
| TRANSPORTATION - BUILDINGS, FLEET & EQUIPMENT | \$ 348.00 | \$ 300.00 | \$ 240.00 | \$ 192.00 |
| GENERAL GOVERNMENT | \$ 34.80 | \$ 30.00 | \$ 24.00 | \$ 19.20 |
| TRANSPORTATION - ROADS & RELATED | \$ 1,328.20 | \$ 1,145.00 | \$ 916.00 | \$ 732.80 |
| TOTAL CHARGE | \$ 2,992.80 | \$ 2,580.00 | \$ 2,064.00 | \$ 1,651.20 |

LOYALIST TOWNSHIP
BY-LAW NO. 2005-68

SCHEDULE "C"
SCHEDULE OF NON-RESIDENTIAL DEVELOPMENT CHARGES

| | Non-Residential Charge Per Square Metre of GFA | |
|--|--|----------------|
| | Non-Residential (excluding Industrial) | Industrial |
| EMERGENCY SERVICES | \$4.59 | \$4.59 |
| PARKS & RECREATION | n/a | n/a |
| TRANSPORTATION - BUILDINGS, FLEET & EQUIPMENT | \$3.37 | \$3.37 |
| GENERAL GOVERNMENT | \$0.33 | \$0.33 |
| TRANSPORTATION - ROADS & RELATED | \$12.90 | \$12.90 |
| TOTAL CHARGE | \$21.19 | \$21.19 |