

THE CORPORATION OF THE TOWN OF ERIN

BY-LAW NUMBER 2009-35

A BY-LAW FOR THE IMPOSITION OF DEVELOPMENT CHARGE

**WHEREAS** the Town of Erin will experience growth through development and re-development;

**AND WHEREAS** development and re-development requires the provision of physical and social services by the Town of Erin;

**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 Town of Erin 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 Town of Erin has given notice of and held a public meeting on the 28 day of July, 2009 in accordance with the Act and the regulations thereto;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF ERIN 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;

"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 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 or agricultural uses, but does include hotels, motels, motor inns and boarding, lodging and rooming houses;

"Council" means the Council of the municipality;

"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 which is registered in accordance with the Income Tax Act 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 Town of Erin or any part or parts thereof;

"local services" means those services, facilities or things 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 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 Town of Erin;

"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 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;

"town" means the area within the geographic limits of the Town of Erin; and

"Zoning By-Law" means the Zoning By-Law of the Town of Erin, including the former Village of Erin, the former Township of Erin 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) Services Related to a Highway
- (b) Other Transportation Services
- (c) Fire Protection Services
- (d) Outdoor Recreation Services
- (e) Indoor Recreation Services
- (f) Administration (studies); and
- (g) Water Supply 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 Town of Erin 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;
- (b) a board of education; or
- (c) the Corporation of the County of Wellington 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
- i. in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and
  - ii. in the case of any other residential building, the gross floor area of the smallest dwelling unit contained in the residential building.

## Rules with Respect to an Industrial Expansion Exemption

- 3.8 If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable in respect of the enlargement is determined in accordance with the following:
- (i) Subject to subsection 3.8 (iii), if the gross floor area is enlarged by 50 per cent or less of the lesser of:
    - 1. the gross floor area of the existing industrial building, or
    - 2. the gross floor area of the existing industrial building before the first enlargement for which:
      - a. an exemption from the payment of development charges was granted, or
      - b. a lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid,pursuant to Section 4 of the Act and this subsection,  
  
the amount of the development charge in respect of the enlargement is zero;
  - (ii) Subject to subsection 3.8 (iii), if the gross floor area is enlarged by more than 50 per cent or less of the lesser of:
    - (A) the gross floor area of the existing industrial building, or

(B) the gross floor area of the existing industrial building before the first enlargement for which:

- (i) an exemption from the payment of development charges was granted, or
- (ii) a lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid,

pursuant to Section 4 of the Act and this subsection,

the amount of the development charge 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 per cent of the gross floor area before the first enlargement, and
- (B) divide the amount determined under subsection (A) by the amount of the enlargement

(iii) For the purposes of calculating the extent to which the gross floor area of an existing industrial building is enlarged in subsection 3.8 (ii), the cumulative gross floor area of any previous enlargements for which:

- (A) An exemption from the payment of development charges was granted, or
- (B) A lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid,

pursuant to Section 4 of the Act and this subsection,

shall be added to the calculation of the gross floor area of the proposed enlargement.

(iv) For the purposes of this subsection, the enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, canopy, shared below grade connection, such as a service tunnel, foundation, footing or parking facility.:

3.9 For the purpose of section 3.8 herein, "existing industrial building" is used as defined in the Regulation made pursuant to the Act.

3.10 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 cemetery or burial ground exempt from taxation under the *Assessment Act*;
- b) a public hospital receiving aid under the *Public Hospitals Act*, R.S.O. 1990, Chap. P.40, as amended, or any successor thereof; and
- c) the development of non-residential farm buildings constructed for bona fide farm uses, which qualify as a farm business, being that which operates with a valid Farm Business Registration Number and is assessed in the Farmland Realty Tax Class;

#### Amount of Charges

##### Residential

3.11 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

3.12 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

3.13 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 48 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 3.11 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; 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

- 3.14 Development charges imposed under this By-law are calculated, payable, and collected upon issuance of a building permit for the development.
- 3.15 Despite section 3.15, 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, commencing on the first anniversary date of this By-law and each anniversary date thereafter, in accordance with 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 section 2.1  
Schedule B - Residential and Non-Residential Development Charges

#### **7. CONFLICTS**

- 7.1 Where the Town 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 July 29, 2009.

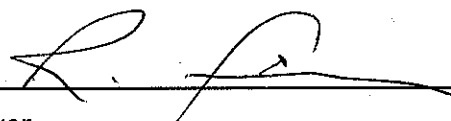
**10. DATE BY-LAW EXPIRES**

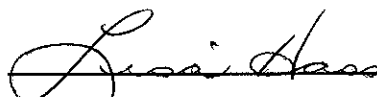
- 10.1 This By-law will expire at 12:01 AM on July 29, 2014 unless it is repealed by Council at an earlier date.

**11. EXISTING BY-LAW REPEALED**

- 11.1 By-law Number 2004-39 is hereby repealed as of the date and time of this By-law coming into effect.

PASSED THIS 28<sup>th</sup> day of July, 2009.

  
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Mayor

  
\_\_\_\_\_  
Town Clerk

**SCHEDULE "A" TO BY-LAW**

**COMPONENTS OF SERVICES DESIGNATED IN SUBSECTION 2.1**

100% Eligible Services

Water Supply Services  
Facilities and Storage  
Distribution Systems

Services Related to a Highway  
Roads  
Sidewalks, Streetlights and Bridges

Other Transportation Services  
Depots and Domes  
PW Rolling Stock

Fire Protection  
Fire Facilities  
Fire Vehicles, Equipment and Gear

90% Eligible Services

Administration  
Studies

Indoor Recreation  
Recreation Facilities

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

**SCHEDULE B  
SCHEDULE OF DEVELOPMENT CHARGES**

SERVICE	RESIDENTIAL				NON-RESIDENTIAL
	Single-Detached Dwelling & Semi-Detached Dwelling	Apartments - 2 Bedrooms +	Apartments - Bachelor & 1 Bedroom	Multiple Dwellings	(per ft <sup>2</sup> of Gross Floor Area)
<b>Town-Wide</b>					
Services Related to a Highway	\$3,099	\$1,926	\$1,324	\$2,477	\$1.92
Other Transportation Services	477	296	204	381	0.29
Fire Protection Services	954	593	408	763	0.42
Outdoor Recreation Services	711	442	304	568	0.04
Indoor Recreation Services	2,080	1,292	889	1,663	0.14
Administration	515	320	220	412	0.32
<b>Sub-Total</b>	<b>\$7,836</b>	<b>\$4,869</b>	<b>\$3,349</b>	<b>\$6,264</b>	<b>\$3.13</b>
<b>Urban Service Areas</b>					
Water Supply Services	\$4,847	\$3,012	\$2,071	\$3,874	\$1.83
<b>Sub-Total</b>	<b>\$4,847</b>	<b>\$3,012</b>	<b>\$2,071</b>	<b>\$3,874</b>	<b>\$1.83</b>
<b>TOTAL (in Urban Service Area)</b>	<b>\$12,683</b>	<b>\$7,881</b>	<b>\$5,420</b>	<b>\$10,138</b>	<b>\$4.96</b>