

THE CORPORATION OF THE CITY OF ST. THOMAS

BY-LAW NUMBER 83 - 2015

**A by-law to establish development charges for
the Corporation of the City of St. Thomas – Lands of Dalewood**

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

AND WHEREAS the Council of The Corporation of the City of St. Thomas (“City of St. Thomas”) 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 the City of St. Thomas 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 1, 2015;

AND WHEREAS by resolution adopted by the Council of the City of St. Thomas on June 22, 2015, determined that no additional public meeting was required under Section 12 of the Act;

AND WHEREAS the Council of the City of St. Thomas had before it a report entitled Development Charges Background Study dated May, 2015, prepared by Hemson Consulting Ltd., wherein it is indicated that the development of any land within the City of St. Thomas – Lands of Dalewood will increase the need for services as defined herein;

AND WHEREAS the Council of the City of St. Thomas on June 1, 2015, approved the applicable Development Charges Background Study, dated May, 2015, in which certain recommendations were made relating to the development charge policy for the City of St. Thomas – Lands of Dalewood pursuant to the *Development Charges Act, 1997*;

AND WHEREAS by resolution adopted by Council of the City of St. Thomas on June 22, 2015, Council has indicated its intent that the future excess capacity identified in the development Charges background Study, dated May 2015, prepared by Hemson Consulting Limited, shall be paid for by development charges or other similar charges.

NOW THEREFORE THE COUNCIL OF THE CITY OF ST. THOMAS ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law,

- (1) "Accessory Use" means that the use, building or structure or part thereof is naturally and normally incidental to or subordinate in purpose or both, and exclusively devoted to a principal use, building or structure;
- (2) "Act" means the *Development Charges Act, 1997*, c. 27;
- (3) "Administration Service" means any and all studies carried out by the municipality that are with respect to eligible services for which a development charge by-law may be imposed under the *Development Charges Act, 1997*.
- (4) "Agricultural use" means a bona fide farming operation;
- (5) "Apartment dwelling" means any dwelling unit within a building containing more than four dwelling units where the units are connected by an interior corridor;
- (6) "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;
- (7) "Board of education" means a board defined in s.s. 1(1) of the *Education Act*, R.S.O. 1990, c.E.2;
- (8) "Building Code Act" means the *Building Code Act, 1992*, R.S.O. 1992, c.23;
- (9) "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) material 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.
- (10) "Council" means the Council of The Corporation of the City of St. Thomas;

- (11) "Commercial" means a building used for any use other than for residential, institutional or industrial uses, and includes self-storage facilities;
- (12) "Development" means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 6 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;
- (13) "Development charge" means a charge imposed pursuant to this By-law;
- (14) "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, including time share units;
- (15) "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;
- (16) "Gross floor area" means the total floor area measured from the exterior face of outside walls, or between the outside of exterior walls and the centre line of party walls dividing the building from another building, including basements, mezzanines, and upper floors;
- (17) "Industrial Use" 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, excluding self-storage facilities and including office uses and the sale of commodities to the general public where such uses are accessory to an industrial use;
- (18) "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;
- (19) "Local board" means a public utility commission, public library board, local board of health, or any other board, commission, committee or body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of the municipality or any part or parts thereof;
- (20) "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*;
- (21) "Multiple dwelling" means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;
- (22) "Municipality" means The Corporation of the City of St. Thomas;
- (23) "Non-residential uses" means a building or structure used for other than a residential use;

- (24) "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;
- (25) "Planning Act" means the *Planning Act*, 1990, R.S.O. 1990, c.P.13 as amended;
- (26) "Regulation" means any regulation made pursuant to the Act;
- (27) "Residential care dwelling" means a building used for a rest home, nursing home, group home, residential care facility, and other similar residential occupancies;
- (28) "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, a residential care dwelling, and the residential portion of a mixed-use building or structure;
- (29) "Semi-detached dwelling" means a building that is divided vertically into two dwelling units each of which has an independent entrance or an entrance through a common vestibule and which building has no access directly between the two units;
- (30) "Services" means services set out in Schedule "A" to this By-law;
- (31) "Single detached dwelling" means a completely detached building containing only one dwelling unit.

CALCULATION OF DEVELOPMENT CHARGES

- 2. (1) Subject to the provisions of this By-law, development charges against land shown in Schedule "C" shall be imposed, calculated and collected in accordance with the base rates set out in Schedule "B", which relate to the services set out in Schedule "A".
- (2) The development charge with respect to the uses of any land, building or structure shall be calculated as follows:
 - (a) in the case of residential development or redevelopment, or the residential portion of a mixed use development or redevelopment, as the sum of the product of the number of dwelling units of each type multiplied by the corresponding total amount for such dwelling unit type, as set out in Schedules "B";
 - (b) in the case of non-residential development or redevelopment, or the non-residential portion of a mixed use development or redevelopment, as the sum of the product of the gross floor area multiplied by the corresponding total amount for such gross floor area as set out in Schedule "B".

- (3) Council hereby determines that the development or redevelopment of land, buildings, or structures for residential and non-residential uses will require the provision, enlargement or expansion of the services referenced in Schedule "A".

PHASE-IN OF DEVELOPMENT CHARGES

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

APPLICABLE LANDS

4. (1) Subject to Section 5, 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) an industrial use.

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 the additional unit(s) does not exceed the gross floor area of the existing dwelling unit;
 - (c) the creation of one additional dwelling unit in any other existing residential building provided the gross floor area of the additional unit does not exceed the smallest existing dwelling unit already in the building;
- (2) Notwithstanding subsection 5(1)(b), development charges shall be calculated and collected in accordance with Schedules "B" where the total residential gross floor area of the additional one or two dwelling units is greater than the total gross floor area of the existing single detached dwelling unit.

- (3) Notwithstanding subsection 5(1)(c), development charges shall be calculated and collected in accordance with Schedules "B" where the additional dwelling unit has a residential gross floor area greater than,
- (a) in the case of semi-detached house or multiple dwelling, the gross floor area of the existing dwelling unit, and
 - (b) in the case of any other residential building, the residential gross floor area of the smallest existing dwelling unit.

DEVELOPMENT CHARGES IMPOSED

6. (1) Subject to subsection (2), development charges shall be calculated and collected in accordance with the provisions of this by-law and be imposed on land to be developed for residential and non-residential uses, 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 9 of the *Condominium Act*, R.S.O. 1998, S.O.1998, c.19; or
 - (g) the issuing of a permit under the *Building Code Act*, in relation to a building or structure.
- (2) Subsection (1) shall not apply in respect to
- (a) local services installed or paid for by the owner within a plan of subdivision or within the area to which the plan relates, as a condition of approval under Section 51 of the *Planning Act*;
 - (b) local services installed or paid for by the owner as a condition of approval under Section 53 of the *Planning Act*.

LOCAL SERVICE INSTALLATION

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

MULTIPLE CHARGES

8. (1) Where two or more of the actions described in subsection 6(1) are required before land to which a development charge applies can be developed, only one development charge shall be calculated and collected in accordance with the provisions of this by-law.
- (2) Notwithstanding subsection (1), if two or more of the actions described in subsection 6(1) occur at different times, and if the subsequent action has the effect of increasing the need for municipal services as set out in Schedule "A", an additional development charge on the additional residential units and additional gross floor area shall be calculated and collected in accordance with the provisions of this by-law.

SERVICES IN LIEU

9. (1) Council may authorize an owner, through an agreement under Section 38 of the Act, to substitute such part of the development charge applicable to the owner's development as may be specified in the agreement, by the provision at the sole expense of the owner, of services in lieu. Such agreement shall further specify that where the owner provides services in lieu in accordance with the agreement, Council shall give to the owner a credit against the development charge in accordance with the agreement provisions and the provisions of Section 39 of the Act, equal to the reasonable cost to the owner of providing the services in lieu. In no case shall the agreement provide for a credit which exceeds the total development charge payable by an owner to the municipality in respect of the development to which the agreement relates.
- (2) In any agreement under subsection (1), Council may also give a further credit to the owner equal to the reasonable cost of providing services in addition to, or of a greater size or capacity, than would be required under this by-law.
- (3) The credit provided for in subsection (2) shall not be charged to any development charge reserve fund.

RULES WITH RESPECT TO RE-DEVELOPMENT

10. In the case of the demolition or conversion of all or part of a residential or non-residential building or structure:

- (1) a credit shall be allowed, provided that the land was improved by occupied structures (or structures capable of occupancy) within the two years prior to the issuance of the building permit, and the building permit has been issued for the development or redevelopment within five years from the date the demolition or change of use permit has been issued; and
 - (2) if a development or redevelopment involves the demolition of and replacement of a building or structure or conversion of a building or structure, a credit shall be allowed equivalent to:
 - (i) in the case of residential redevelopment, the number of dwelling units demolished or converted multiplied by the applicable residential development charge in place at the time the development charge is payable,
 - (ii) in the case of non-residential, the amount of gross floor area demolished or converted multiplied by applicable development charge in place at the time the development charge is payable.
11. (1) A credit can, in no case, exceed the amount of the development charge that would otherwise be payable, and
- (2) No credit is available for the redevelopment of an industrial use.

TIMING OF CALCULATION AND PAYMENT

12. (1) Development charges shall be calculated and payable in full in money or by provision of services as may be agreed upon, or by credit granted under the Act, on the date that the first building permit is issued in relation to a building or structure on land to which a development charge applies.
- (2) Notwithstanding subsection (1), the development charges shall be payable with respect to an approval of a plan of subdivision upon registration of the plan of subdivision.
- (3) 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.

RESERVE FUNDS

13. (1) Monies received from payment of development charges under this by-law shall be maintained in three separate reserve funds as follows: unfunded water, wastewater and roads services; wastewater services; and administration.
- (2) Where more than one capital project underlying the service category referred to in subsection (1) has been sufficiently completed, whether at the same time or at a later date, reimbursement to the involved parties will be provided on the proportionate basis of the costs of the works completed. In order for capital projects to be deemed sufficiently

complete, the works will be subject to review and approval of the Director, Environmental Services & City Engineer.

- (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 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 (1).
- (6) The Treasurer of the Municipality shall, in each year, furnish to Council a statement in respect of the reserve funds established hereunder for the prior year, containing the information set out in Section 12 of *O.Reg. 82/98*.

BY-LAW AMENDMENT OR APPEAL

- 14. (1) Where this by-law or any development charge prescribed hereunder 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

- 15. Only the "wastewater services" component of the development charges set out in Schedules "B" to this by-law shall be adjusted annually on April 1st, without amendment to this by-law, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics".

SEVERABILITY

16. 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

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

BY-LAW REGISTRATION

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

BY-LAW ADMINISTRATION

19. This by-law shall be administered by the Municipal Treasurer.

SCHEDULES TO THE BY-LAW

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

Schedule "A" - Schedule of Designated Municipal Services

Schedule "B" - Schedule of Area-Specific Development Charges for the Lands of Dalewood

Schedule "C" – Map of Lands of Dalewood

EXISTING BY-LAW REPEAL

21. By-law 115-2010 is repealed effective July 1, 2015

DATE BY-LAW EFFECTIVE

22. This By-law shall come into force and effect on July 1, 2015.

DATE BY-LAW EXPIRES

23. This by-law will expire five years after the effective date of this by-law, unless it is repealed by Council at an earlier date.

SHORT TITLE

24. This by-law may be cited as the "City of St. Thomas Development Charge By-law – Lands of Dalewood, 2015."

Passed by the Council this 22nd day of June, 2015.

Original signed by "Heather Jackson"
Mayor

Original signed by "Wendell Graves"
CAO/City Clerk

SCHEDULE "A"
TO BY-LAW 83-2015

DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

1. Unfunded Water, Wastewater and Roads Services
2. Wastewater Collection
3. Administration Services

SCHEDULE "B"
TO BY-LAW 83-2015

**SCHEDULE OF AREA-SPECIFIC DEVELOPMENT CHARGES
FOR THE LANDS OF DALEWOOD**

Service	Residential Charge By Unit Type					Non-Residential	
	Single & Semi-Detached	Other Multiples	Apartments 2BR or more	Apartments less than 2BR	Residential Care	Commercial / Institutional (\$/sq.m)	Industrial (\$/sq.m)
Unfunded Water, Wastewater and Roads	\$683	\$601	\$430	\$301	\$246	\$6.98	\$0.00
Wastewater Services	\$687	\$605	\$433	\$302	\$247	\$24.52	\$14.79
Administration	\$0	\$0	\$0	\$0	\$0	\$0.00	\$0.00
Total Dalewood Per Unit	\$1,370	\$1,206	\$863	\$603	\$493	\$31.50	\$14.79

SCHEDULE "C"
TO BY-LAW 83 – 2015

MAP OF LANDS OF DALEWOOD

