

The Corporation of the Township of Huron-Kinloss



BY-LAW

2010-19

BEING A BY-LAW WITH RESPECT TO THE IMPOSITION OF DEVELOPMENT CHARGES

WHEREAS Section 2(1) of the Development Charges Act, 1997 S.O. 1997, c. 27, authorizes the Council of a municipality to pass by-laws for the imposition of development charges against land located in the municipality where the development of land would increase the need for municipal services as designated in the by-law;

AND WHEREAS the Township of Huron-Kinloss has completed a Development Charges Background Study in accordance with Section 10 of the Development Charges Act, 1997;

AND WHEREAS the Council has given notice of its intention to pass a By-Law and held a public meeting in accordance with Section 12 of the Development Charges Act, 1997;

NOW THEREFORE the Council for the Corporation of the Township of Huron-Kinloss **HEREBY ENACTS AS FOLLOWS:**

PART I - DEFINITIONS

1. In this By-Law,
 - 1.1 Apartment Building means the whole of a structure that contains four or more dwelling units which units have a common entrance from street level and are served by a common corridor and the occupant of which have the right to use in common the corridors, stairs, elevators, yards or one or more of them, and Apartment shall mean one such unit located within an apartment building;
 - 1.2 Average level of service means the average level of service in the municipality for the ten years immediately preceding the preparation of the background study;
 - 1.3 Background study means the study required prior to passage of this by-law of the increases in services, and the capital costs associated therewith, projected as a result of development;
 - 1.4 A bedroom means a habitable room larger than 7 square metres, including a den, study or similar area, but does not include a living room, dining room or kitchen;
 - 1.5 Capital costs means costs incurred or proposed to be incurred by the Corporation or a local board thereof directly or under an agreement;
 - a) costs to acquire land or an interest in land, including the capital component of costs to acquire a leasehold interest;
 - b) costs to improve land;
 - c) costs to acquire, lease, construct or improve buildings and structures;
 - d) costs to acquire, lease, construct or improve facilities including;

1. rolling stock with an estimated useful life of seven years or more,
 2. furniture and equipment, other than computer equipment, and
 3. materials acquired for circulation, reference or information purposes by a library board as defined in the Public Libraries Act;
- e) costs to undertake studies in connection with any of the matters referred to in paragraphs a)-d).
- f) costs of the development charge background study, and
- g) interest on money borrowed to pay for costs described in paragraphs a)-d).
- 1.6 Corporation means the Corporation of the Township of Huron-Kinloss;
- 1.7 Council means the Council of the Corporation of the Township of Huron-Kinloss;
- 1.8 Development which includes redevelopment, means:
- a) 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, including alterations to the interior, that has the effect of changing the size or usability thereof, and includes all enlargement of existing development which creates new dwelling units ; and redevelopment has a corresponding meaning; and/or
 - b) property that is being that is being divided by either a Plan of Subdivision or by Consent within the meaning of the Planning Act;
- 1.9 Development charge means a charge imposed for increased capital costs required because of increased need for service arising from development of the area to which this By-Law applies;
- 1.10 A dwelling means a building, occupied or designed to be occupied exclusively as a home, residence or sleeping place by one or more persons;
- 1.11 A dwelling, duplex means the whole of a dwelling that is divided horizontally into two separate dwelling units each of which has an independent entrance either directly from the outside or through a common vestibule;
- 1.12 A dwelling, multiple means all dwellings other than a single detached dwelling, a semi-detached dwelling, a duplex dwelling, an apartment, or a multiple occupancy residential retirement/senior citizens/nursing type home;
- 1.13 A dwelling, semi-detached or row means a residential building, which contains a single dwelling unit, that has one or two vertical walls, but no other parts, attached to other buildings;
- 1.14 A dwelling, single detached means a residential building, which contains a single dwelling unit, that is not attached to other buildings;
- 1.15 A dwelling unit means one or more habitable rooms occupied or designed to be occupied by an individual or family as an independent and separate housekeeping establishment in which separate kitchen and sanitary facilities are provided for the use of such individual or family, with a private entrance from outside the building or from a common hallway or stairway inside the building;
- 1.16 A front-end payment means a payment made by an owner pursuant to a front-ending agreement, which may be in addition to a development charge that the owner is required to pay under this By-Law, to cover the capital costs of the services designated in the agreement that are required to enable land to be developed within the Corporation;
- 1.17 A gross floor area means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centreline 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 wall;

- 1.18 A local board means a public utility commission, transportation commission, public library board, board of park management, board of health, police service board, 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 of the Corporation or any part or parts thereof, but does not include a board as defined in subsection 1(1) of the Education Act;
- 1.19 Lucknow Settlement Area includes all properties within the boundaries of the Lucknow Urban Area as defined in the Township of Huron-Kinloss Official Plan and any properties outside of Lucknow Urban Area that are:
- a. created by consent or
 - b. created by Plan of Subdivision or Condominium or
 - c. governed by Site Plan Control or
 - d. are existing lots of record
- and that are allowed to connect to the existing water system or the existing sanitary sewer system or the existing storm water drainage system of the Municipality.
- 1.20 Minister means the Minister of Municipal Affairs and Housing;
- 1.21 OMB means the Ontario Municipal Board;
- 1.22 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;
- 1.23 Residential retirement/senior citizens/nursing type home refers to a residentially zoned dwelling that may contain, in addition to dwelling units, bedrooms for the use of residents, which do not have separate, individual culinary and/or sanitary facilities for the exclusive use of the residents;
- 1.24 Ripley Settlement Area includes all properties within the boundaries of the Ripley Ward and any properties outside of Ripley Ward that are:
- a. created by consent or
 - b. created by Plan of Subdivision or Condominium or
 - c. governed by Site Plan Control or
 - d. are existing lots of record
- and that are allowed to connect to the existing water system or the existing sanitary sewer system or the existing storm water drainage system of the Municipality.
- 1.25 Services means those services designated in section 9 of this By-Law.
- 1.26 Treasurer means the treasurer for the Corporation of the Township of Huron-Kinloss;

PART II - APPLICATION

2. This By-Law applies to all of the lands in the geographic area of the Corporation. Different charges shall apply to development of land within the Ripley Settlement Area, the Lucknow Settlement Area, the former Township of Kinloss, and to different areas within the boundaries of the former Township of Huron, as set out in the schedule of charges.
3. This By-Law does not apply to land that is owned by and used for the purposes of,
- a) a board of education;
 - b) the Corporation or any local board thereof;
 - c) the Corporation of the County of Bruce or any local board thereof;
 - d) The Crown in Right of Ontario or the Crown in Right of Canada.

4. No development charge under section 5 is payable where the development;
 - a) is an enlargement of an existing dwelling unit;
 - b) creates one or two additional dwelling units in an existing single detached dwelling if the total gross floor area of the additional dwelling unit or units does not exceed the gross floor area of the existing dwelling unit;
 - c) creates one additional dwelling unit in a semi-detached or row dwelling if the total gross floor area of the additional dwelling unit does not exceed the gross floor area of the existing dwelling unit;
 - d) creates one additional dwelling unit in any other residential dwelling if the total gross floor area of the additional dwelling unit does not exceed the gross floor area of the smallest dwelling unit contained in the building;
 - e) is a bona fide non-residential farm building.
5. Subject to section 6, development charges shall be imposed upon and shall be applied, calculated and collected in accordance with the provisions of this By-Law on all land to be developed for residential uses, where
 - a) the development of the land will increase the need for services; and the development requires any one of;
 1. the passing of a zoning by-law or of an amendment thereto under Section 34 of the Planning Act,
 2. the approval of a minor variance under Section 45 of the Planning Act,
 3. a conveyance of land to which a by-law passed under Subsection 50(7) of the Planning Act applies,
 4. the approval of a plan of subdivision under Section 51 of the Planning Act,
 5. a consent under Section 53 of the Planning Act,
 6. the approval of a description under Section 50 of the Condominium Act, or
 7. the issuing of a permit under the Building Code Act, 1992, in relation to a building or structure.
 - c) all lots of record shall pay a development charge upon issuance of a building permit, where no development charge or lot levy has previously been collected for that lot.
6. Section 5 shall not apply in respect of,
 - a) those services, relating to a plan of subdivision or within the area to which the plan relates, to be installed or paid for by the owner as a condition of approval under section 51 of the Planning Act; and
 - b) those services to be installed or paid for by the owner as a condition of approval under section 53 of the Planning Act.
7. Development charges shall not be imposed to pay for increased capital costs required because of increased needs for any of the following:
 - a) the provision of cultural or entertainment facilities, including museums, theatres and art galleries but not including public libraries;
 - b) the provision of tourism facilities including convention centres;
 - c) the acquisition of land for parks;
 - d) the provision of a hospital as defined in the Public Hospitals Act;
 - e) the provision of waste management services; or
 - f) the provision of headquarters for the general administration of municipalities and local boards.

8. In no event shall a shortfall caused by the exclusion of development charges listed in section 4 be made up for by increasing the development charges for other development.

PART III - RATES AND CALCULATIONS

9. Development charges against designated lands within the Corporation which is to be developed shall be based upon the following designated services provided by the Corporation:
 - a) sanitary sewage service, including sewage treatment facilities, trunk sanitary sewers and pumping stations;
 - b) water service, including water supply, water storage and watermains;
 - c) roads,
 - d) fire protection
 - f) administration including capital growth type studies;
10. Subject to the provisions of this Part and this By-Law, development charges imposed upon designated lands within the Corporation which is to be developed shall be calculated and collected at the rates set out in Schedule 'A' attached hereto.

PART IV - COMPLAINTS

11. An owner may complain in writing to the Council in respect of the development charge imposed by the Corporation that,
 - a) the amount of the development charge was incorrectly determined;
 - b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined;
 - c) there was an error in the application of this By-Law.
12. A complaint may not be made under Section 11 later than 90 days after the day the development charge, or any part of it, is payable.
13. The complaint must be in writing, must state the complainant's name, the address where notices can be given to the complainant and the reasons for the complaint.
14. The Council shall hold a hearing into the complaint and shall give the complainant an opportunity to make representation at the hearing.
15. The Clerk of the Corporation shall mail a notice of the hearing to the complainant at least fourteen (14) days before the hearing.
16. Council may:
 - a) dismiss the complaint; or
 - b) rectify any incorrect determination or error that was the subject of the complaint.
17. The Clerk of the Corporation shall mail to the complainant a notice of the Council's decision and of the last day for appealing the decision, which shall be the day that is forty (40) days after the day the decision is made. The notice required under this section must be mailed not later than twenty (20) days after the day the Council's decision is made.

PART V - RESERVE FUNDS

18. The Corporation shall establish a separate reserve fund for each category of service to which the development charge relates.
19. Payments received by the Corporation under Part III of this By-Law shall be paid into the reserve fund or funds to which the charge relates and shall be used only for capital costs.
20. Notwithstanding section 19, the Corporation may borrow money from a reserve fund but if it does so the Corporation shall repay the amount used plus interest at a rate not less than the Bank of Canada rate on the day this By-Law comes into force.
21. The Treasurer shall each year on or before such date as the Council may direct, give the Council a financial statement relating to this By-Law and reserve funds established under section 18.
22. The Treasurer shall give a copy of the statement required by section 21 to the Minister within sixty (60) days after giving the statement to the Council.

PART VI - CREDITS

23. The Corporation shall give a person a credit towards the development charge in accordance with the agreement if the person performs work that relates to a service to which a development charge by-law relates.
24. The amount of the credit is the reasonable cost of doing the work as agreed by the Corporation and the person who is to be given the credit.
25. No credit may be given for any part of the cost of the work that relates to an increase in the level of service that exceeds the average level of service.
26. A credit, or any part of it, may be given before the work for which the credit is given is completed.
27. A credit given in exchange for work done is a credit only in relation to the service to which the work relates.
28. If the work relates to more than one service, the credit for the work must be allocated, in the manner agreed by the Corporation, among the services to which the work relates.
29. The Corporation may agree that a credit given be in relation to another service to which this By-Law applies.
30. The Corporation may agree to change a credit so that it relates to another service to which this By-Law relates.
31. A Credit may not be transferred unless the holder and person to whom the credit is to be transferred have agreed in writing to the transfer, and the Corporation has agreed to the transfer, either in the agreement under which the holder was given the credit or subsequently.
32. The transfer of a credit is not effective until the Corporation transfers it.
33. The Corporation shall transfer a credit upon being requested to do so by the holder, the person to whom the credit is to be transferred or the agent of either of them and being given proof that the conditions in section 31 are satisfied.
34. A credit that relates to a service may be used only with respect to that part of a development charge that relates to the service.
35. A credit may only be used by the holder or the holder's agent.

PART VII - INDEXING OF CHARGE

36. The Development Charges set out in Schedule "A" attached to this By-Law, may be adjusted by amendment to this By-Law within the meaning of Section 5(1) paragraph 10 of the Development Charges Act S.O. 1997, (the "Act") and Section 7 of Ontario Regulation 82/98 made pursuant to the "Act", to allow for inflationary adjustments to the charges.
37. Any By-Law passed under section 36 of this By-Law shall be exempt from the notice and other provisions stipulated in Sections 10, 12, 13 & 14 of the "Act".

PART VIII - ADMINISTRATION

38. A development charge is payable for a development as follows:
 - a) for development that requires approval of a plan of subdivision under Section 51 of the Planning Act or a consent under Section 53 of the Planning Act and for which a subdivision agreement or consent agreement is entered into, those parts of the Development charge that relate to sanitary sewage service, water supply service or roads, are payable immediately upon the parties entering into the agreement;
 - b) in all other instances the charge is payable for a development upon a building permit being issued for the development.
 - c) the development charge shall be reduced by 70% for dedicated seniors care facilities, as defined in Section 1.22 of this by-law, that are residentially zoned.
39. If any amount is payable under a front-ending agreement by a person who develops land, the Corporation shall not issue a building permit for the development until the amount is paid.
40. Despite Section 38, the Corporation may enter into an agreement with a person who is required to pay a development charge providing for all or part of a development charge to be paid before or after it would otherwise be payable.
41. The total amount of a development charge payable under an agreement under section 40 is the amount of the development charge that would be determined under this By-Law on the day specified in the agreement or, if no such day is specified, at the earlier of,
 - a) the time the development charge or any part of it is payable under the agreement; and
 - b) the time the development charge would have been payable in the absence of the agreement.
42. An agreement under section 40 may allow the Corporation to charge interest, at a rate stipulated in the agreement, on that part of the development charge paid after it would otherwise be payable.
43. Nothing in this By-Law prevents the Council from passing subsequent development charges by-laws applying to the area covered under this by-law.
44. A certified copy of this by-law may be registered against the land to which it applies.
45. Where a development charge or any part of it remains unpaid after it is payable, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as taxes.
46. This By-Law shall be administered by Council.
47. This By-Law shall come into force and effect upon its final passage.

48. This By-Law shall continue in force and effect for a period not to exceed five (5) years from the date of its enactment, unless it is repealed at an earlier date by subsequent by-law.
49. This By-Law may be cited as the Development Charges By-Law.

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED this 16th day of February, 2010.



Mayor


Clerk

Schedule "A"

By-Law 2010 -

Lucknow Settlement Area						
Residential Type:	Persons per Unit	Sanitary Sewage	Water Service	Admin.	Fire Protection	Total
Single and semi detached	2.7	\$0.00	\$2,179.01	\$262.28	\$175.39	\$2,616.68
Multiple Units and Townhomes	2.2	\$0.00	\$1,775.49	\$213.71	\$142.91	\$2,132.11
Apartments	1.5	\$0.00	\$1,210.56	\$145.71	\$97.44	\$1,453.71
Residential nursing/retirement/ senior citizen homes with common kitchen facilities	1 person per bedroom	\$0.00	\$807.04	\$97.14	\$64.96	\$969.14 per bedroom

Ripley Settlement Area						
Residential Type:	Persons Per Unit	Sanitary Sewage	Water Service	Admin.	Fire Protection	Total
Single and semi detached	2.7	\$1,003.67	\$437.45	\$262.28	\$0.00	\$1,703.40
Multiple Units and Townhomes	2.2	\$817.81	\$356.44	\$213.71	\$0.00	\$1,387.96
Apartments	1.5	\$557.60	\$243.03	\$145.71	\$0.00	\$946.34
Residential nursing/retirement/ senior citizen homes with common kitchen facilities	1 person per bedroom	\$371.73	\$162.02	\$97.14	\$0.00	\$630.89 per bedroom

Former Township of Huron: Rural						
Residential Type:	Persons per Unit	Water Service	Transportation	Admin.	Fire Protection	Total
Single and semi detached	2.7	\$0.00	\$832.49	\$262.28	\$0.00	\$1,094.77
Multiple Units and Townhomes	2.2	\$0.00	\$678.33	\$213.71	\$0.00	\$892.03
Apartments	1.5	\$0.00	\$462.50	\$145.71	\$0.00	\$608.21
Residential nursing/retirement/ senior citizen homes with common kitchen facilities	1 person per bedroom	\$0.00	\$308.33	\$97.14	\$0.00	\$405.47 per bedroom

Former Township of Huron: Lakeshore						
Residential Type:	Persons per Unit	Water Service	Transportation	Admin.	Fire Protection	Total
Single and semi detached	2.7	\$725.19	\$832.49	\$262.28	\$0.00	\$1,819.96
Multiple Units and Townhomes	2.2	\$590.90	\$678.33	\$213.71	\$0.00	\$1,482.93
Apartments	1.5	\$402.89	\$462.50	\$145.71	\$0.00	\$1,011.09
Residential nursing/retirement/ senior citizen homes with common kitchen facilities	1 person per bedroom	\$268.59	\$308.33	\$97.14	\$0.00	\$674.06 per bedroom

Former Township of Kinloss						
Residential Type:	Persons per Unit	Water Service	Transportation	Admin.	Fire Protection	Total
Single and semi detached	2.7	\$0.00	\$0.00	\$262.28	\$175.39	\$437.61
Multiple Units and Townhomes	2.2	\$0.00	\$0.00	\$213.71	\$142.91	\$356.62
Apartments	1.5	\$0.00	\$0.00	\$145.71	\$97.44	\$243.15
Residential nursing/retirement/ senior citizen homes with common kitchen facilities	1 person per bedroom	\$0.00	\$0.00	\$97.14	\$64.96	\$162.10 per bedroom

NOTES TO SCHEDULE "A"

1. The component of the Development Charge for water service in the Township of Huron Lakeshore Area and the component for sanitary sewage service in the Ripley Settlement Area, shall not be assessed against, or collected from, the development of a property which has been previously assessed a Major Facilities Charge under a water rate by-law, or a frontage charge under a sewer rate by-law, of the former Township of Huron, or of the former Village of Ripley, unless;
 - a) the use of the property is being intensified by means of development as that term is defined in this By-Law
 - b) the property is being redeveloped by a plan of subdivision or by consent within the meaning of the Planning Act.
2. Former Township of Huron: Rural is defined as the area of the former Township of Huron west of Sideroad 30 excluding the area of the former Village of Ripley and the area within the service area of the Lake Huron Shoreline Water System.
3. Former Township of Huron: Lakeshore is defined as that area of the former Township of Huron which is included in the service area of the Lake Huron Shoreline Water System.
4. There is a 70% reduction in the development charge for dedicated seniors care facilities (Lodge homes)