

**THE CORPORATION OF THE  
TOWNSHIP OF WAINFLEET**

**BYLAW NO. 050-2016**

Being a bylaw to establish Development Charges  
in the Township of Wainfleet.

**WHEREAS** the *Development Charges Act, 1997, as amended* (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 Township of Wainfleet has given notice and held a public meeting on the day of July 12, 2016 in accordance with the Act and the regulations thereto;

**NOW THEREFORE THE COUNCIL OF THE TOWNSHIP OF WAINFLEET HEREBY ENACTS AS FOLLOWS:**

**1.0 DEFINITIONS**

1.1 In this by-law, “Act” means the *Development Charges Act, 1997, as amended*, or any successor thereto;

“**accessory use**” means where used to describe a use, building or structure, that the use, building or structure is naturally and normally incidental, subordinate in purpose of floor area or both, and exclusively devoted to a principal use, building or structure;

“**apartment unit**” means any residential dwelling unit within a building containing three or more dwelling units where access to each residential unit is obtained through a common entrance or entrances from the street level and the residential units are connected by an interior corridor;

“**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;

“**benefiting area**” means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;

“**board of education**” has the same meaning as that specified in the *Education Act* or any successor thereto;

“**Building Code Act**” means the *Building Code Act, 1992*, as amended; or any successor thereto;

“**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,

- to acquire land or an interest in land, including a leasehold interest;
- to improve land;
- to acquire, lease, construct or improve buildings and structures;
- to acquire, construct or improve facilities including:
  - furniture and equipment other than computer equipment; and
  - materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*; and
  - rolling stock with an estimated useful life of seven years or more, and
- to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d), 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), (b), (c) and (d) that are growth-related;

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“**commercial**” means any non-residential development not defined under “institutional” or “industrial”;

“**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 has the effect of increasing the size or 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 industrial building”** means a building or buildings existing on site in the Township of Wainfleet on the day this by-law comes into effect or the first building constructed and occupied on a vacant site pursuant to site plan approval under Section 41 of the *Planning Act*, R.S.O. c.P.13 of the *Planning Act* subsequent to this by-law coming to effect for which fill development charges were paid, and is being used for or in conjunction with,

- (i) the production, compounding, processing, packaging, crating, bottling, packing or assembling of raw or semi-processed goods or materials in not less than seventy-five percent of the total gross floor area of the building or buildings on a site (“manufacturing”) or warehousing related to the manufacturing use carried on in the building or buildings;
- (ii) research or development in connection with manufacturing in not less than seventy-five percent of the total gross floor area of the building or buildings on a site;
- (iii) retail sales by a manufacturer, if the retail sales are at the site where the manufacturing is carried out, such retail sales are restricted to goods manufactured at the site, and the building or part of a building where such retail sales are carried out does not constitute greater than twenty-five percent of the total gross floor area of the building or buildings on the site;  
or
- (iv) office or administrative purposes, if they are,
  - (1) carried out with respect to manufacturing or warehousing; and
  - (2) in or attached to the building or structure used for such manufacturing or warehousing;

**“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 and would include wholesale greenhouse facilities, structures, value added production uses and value added marketing uses;

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

**“gross floor area”** means 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 other dwelling units or other portion of a building;

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:

- a room or enclosed area within the building or structure above or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
- loading facilities above or below grade; and
- 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 lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and shall include, but without limiting the generality of the foregoing, places of worship, and special care facilities;

“**local board**” has the same definition as defined in the *Development Charges Act*,

“**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* as amended or any successor thereto;

“**lot of record**” means a parcel of land, the boundaries of which are the same as what existed on the date this bylaw was passed but does not include lots to be created in the future through severance or plan of subdivision.

“**mobile home**” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer;

“**multiple dwellings**” means all dwellings other than single-detached, semi-detached and apartment house dwellings;

“**municipality**” means The Corporation of the Township of Wainfleet;

“**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 and includes all commercial, industrial and institutional uses;

“**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*, as amended or any successor thereto;

“**regulation**” means any regulation made pursuant to the Act;

“**residential use**” means land or buildings or structures of any kind whatsoever used, designed or intended to be used as living accommodations for one or more individuals;

**“semi-detached dwelling”** means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal walls, but no other parts, attached or another dwelling unit where the residential units are not connected by an interior corridor;

**“services” (or “service”)** means those services designated in Schedule “A” to this by-law;

**“servicing agreement”** means an agreement between a landowner and the municipality relative to the provision of municipal services to specified lands within the municipality;

**“single detached dwelling unit”** means a residential building consisting of one dwelling unit and not attached to another structure and includes mobile homes;

**“value added production uses”** means value added farm related uses that include processing of agricultural products, including wineries, canneries, bakeries, cheese factories and similar uses, and distribution and warehousing of agricultural products;

**“value added marketing uses”** means value added farm related uses accessory to an agricultural use that include a variety of methods of increasing the sales of raw or finished farm products. Such uses may include farm produce outlet and other retail facilities for the sale of products, pick your own facilities, and experiential uses such as working farm vacations or culinary schools;

**“wind turbine”** means a part of a system that converts energy into electricity, and consists of a wind turbine, a tower and associated control or conversion electronics. A wind turbine and energy system may be connected to the electricity grid in circuits at a substation to provide electricity off-site for sale to an electrical utility or other intermediary.

## **2.0 DESIGNATION OF SERVICES**

2.1 The categories of services for which development charges are imposed under this by-law are as follows:

- (a) Roads and Related;
- (b) Fire protection services;
- (c) Outdoor recreation;
- (d) Indoor recreation services;
- (e) Library services; and
- (f) Administration.

2.2 The components of the services designated in subsection 2.1 are described in Schedule A.

### **3.0 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 subsection 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 subsection 3.3, this by-law applies to all lands in the geographic area of the Township of Wainfleet.

3.3 This by-law shall not apply to lands that are owned by and used for the purposes of:

- (a) the Township of Wainfleet or a local board thereof;
- (b) a board as defined in section 1(1) of the *Education Act*;
- (c) the Region of Niagara or a local board thereof.

#### Approvals for Development

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- 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*; or
  - (vii) the issuing of a permit under the *Building Code Act, 1992* 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) a place of worship exempt from taxation under the *Assessment Act*;



- (b) bona fide farm (non-residential) buildings; and
- (c) a development by a university, other post-secondary school offering a degree or diploma recognized by the Province of Ontario or a not-for-profit private elementary or secondary school operated in compliance with section 16 of the Education Act, as amended, where such development is used for the academic or teaching purposes of the university or school, is exempt from development charges under this By-law.
- (d) an application for a residential or non residential building permit, but not a wind turbine, for a building or structure on an existing lot of record will have the development charges presented in Schedule "B" to this bylaw reduced by 50%.

### 3.6 Rules with Respect to an Industrial Expansion Exemption

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 3.6(iii), if the gross floor area is enlarged by 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 zero;
- (ii) Subject to subsection 3.6(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

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- (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 3.6(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.

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.

#### Amount of Charges

#### Residential

- 3.7 The development charges described in **Schedule B** to this by-law 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 unit, and calculated with respect to each of the services according to the type of residential use.

### Non-Residential Uses

3.8 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 gross floor area of the non-residential use.

### Reduction of Development Charges Where Redevelopment

3.9 Despite any other provision of this by-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within 60 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 subsections 3.5 and 3.6 and of this by-law by the number, according to type, of dwelling units that have been or will be demolished or converted to another principal use; and provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.
- (b) the gross floor area of the building demolished/converted multiplied by the current non-residential development charge in place at the time the development charge is payable.

### Time of Payment of Development Charges

3.10 Development charges imposed under this section are payable upon issuance of a building permit with respect to each dwelling unit, building or structure.

**4.0 PAYMENT BY SERVICES**

4.1 Despite the payments required under subsection 3.10, Council may, by agreement, give a credit towards a development charge in exchange for work that relates to a service for which a development charge is imposed under this by-law.

**5.0 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 Statistics Canada Quarterly Construction Price Statistics.

**6.0 SCHEDULES**

6.1 The following schedules to this by-law form an integral part thereof:

Schedule A - Components of Services Designated in subsection 2.1

Schedule B - Residential and Non-Residential Development Charges

**7.0 DATE BY-LAW IN FORCE**

7.1 This by-law shall come into force on the 3<sup>rd</sup> day of August, 2016.

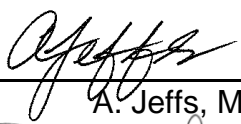
**8.0 DATE BY-LAW EXPIRES**

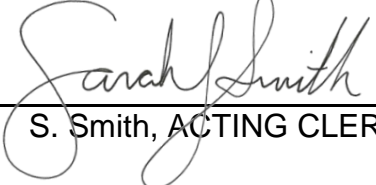
8.1 This by-law will expire five (5) years from the date of this by-law coming into force, unless it is repealed at an earlier date.

BYLAW READ A FIRST TIME THIS 2<sup>ND</sup> DAY OF AUGUST, 2016.

BYLAW READ A SECOND TIME THIS 2<sup>ND</sup> DAY OF AUGUST, 2016.

BYLAW READ A THIRD TIME AND FINALLY PASSED THIS 2<sup>ND</sup> DAY OF AUGUST, 2016.

  
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A. Jeffs, MAYOR

  
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S. Smith, ACTING CLERK

## **SCHEDULE “A” TO BYLAW NO. 050-2016**

### **DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW**

#### Municipal-wide Services

1. Roads and Related
  - Roads, Sidewalks, Streetlights
  - Depots and Domes
  - Rolling Stock
2. Fire Protection
  - Fire Stations
  - Fire Vehicles
  - Small Equipment and Gear
3. Outdoor Recreation Services
  - Parkland Development, Amenities and Trails
  - Parks Vehicles and Equipment
4. Indoor Recreation Services
  - Recreation Facilities
5. Library Services
  - Library Facilities
  - Library Materials
6. Administration
  - Studies

**SCHEDULE "B" TO BYLAW NO. 050-2016**

**SCHEDULE OF DEVELOPMENT CHARGES**

Service	RESIDENTIAL					NON-RESIDENTIAL		
	Single and Semi-Detached Dwelling	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Other Multiples	Special Care/Special Dwelling Units	per ft <sup>2</sup>	per m <sup>2</sup>	Wind Turbine per unit
<b>Municipal Wide Services:</b>								
Roads and Related	3,538	2,040	1,433	2,116	1,194	2.03	21.85	3,538
Fire Protection Services	888	512	360	531	300	0.50	5.38	888
Outdoor Recreation Services	200	115	81	120	67	0.05	0.54	-
Indoor Recreation Services	967	558	392	578	326	0.24	2.58	-
Library Services	335	193	136	200	113	0.09	0.97	-
Administration	201	116	81	120	68	0.12	1.29	201
<b>Total Municipal Wide Services</b>	<b>6,129</b>	<b>3,534</b>	<b>2,483</b>	<b>3,665</b>	<b>2,068</b>	<b>3.03</b>	<b>32.61</b>	<b>4,627</b>