

**THE CORPORATION OF  
THE TOWN OF NIAGARA-ON-THE-LAKE**

**BY-LAW NO. 4680-13**

**A BY-LAW WITH RESPECT TO AREA-SPECIFIC  
DEVELOPMENT CHARGES IN THE ST. DAVIDS  
COMMUNITY FOR SANITARY SEWERAGE  
SERVICE**

WHEREAS section 2(1) of the *Development Charges Act, 1997*, c.27 (hereinafter called the Act) enables the council of a municipality by by-law to impose development charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies and the development requires one of the actions set out in subsection 2(2) of the Act;

AND WHEREAS the Council of the Corporation of the Town of Niagara-on-the-Lake, at its meeting of *November 18<sup>th</sup>, 2013* approved a report dated *October 11<sup>th</sup>, 2013*, entitled "Development Charge Background Study re Area-specific Development Charge Policy for Sanitary Sewer Service in the St. Davids Community of the Town of Niagara-on-the-Lake," prepared by Watson and Associates Economists Ltd.;

AND WHEREAS the Council has given Notice in accordance with Section 12 of the *Development Charges Act, 1997* of its development charges proposal and held a public meeting on *October 28<sup>th</sup>, 2013*;

AND WHEREAS the Council has heard all persons who applied to be heard in objection to, or in support of, the development charges proposal at its public meeting and provided a subsequent period for written communications to be made;

AND WHEREAS the Council in adopting the said report on *November 18<sup>th</sup>, 2013*, directed that development charges for sanitary sewerage service be imposed on land under development or redevelopment within the geographical limits of the urban area of the community of St. Davids, as hereinafter provided.

NOW THEREFORE BE IT ENACTED AS A BY-LAW OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE, AS FOLLOWS:

1. In this by-law,

DEFINITIONS

- (1) "Act" means the *Development Charges Act, 1997, C.27*;
- (2) "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 and floor area, and exclusively devoted to a principal use, building or structure;
- (3) "agricultural use" means use or intended use for bona fide farming purposes:
  - (a) including (but not limited to):
    - (i) cultivation of crops, whether on open land or in greenhouses, including (but not limited to) fruit, vegetables, herbs, grains, field crops, sod, trees, shrubs, flowers, and ornamental plants;
    - (ii) raising of animals, including (but not limited to) cattle, horses, pigs, poultry, livestock, fish;
    - (iii) agricultural animal husbandry, dairying, equestrian activities, horticulture, fallowing, pasturing, and market gardening; and
    - (iv) services related to the boarding or breeding of household pets.
  - (b) but excluding:
    - (i) retail sales activities; including but not limited to restaurants, banquet facilities, hospitality facilities and gift shops;
    - (ii) services related to grooming of household pets;
- (4) "apartment unit" means any residential dwelling unit within a building containing more than two dwelling units where the principal means of access to the residential units is from an interior corridor;
- (5) "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;
- (6) "benefiting area" is as defined in the Act;
- (7) "board of education" is as defined in subsection 1(1) of the *Education Act*;
- (8) "Building Code Act" means the *Building Code Act, S.O. 1992, c.23*, as amended;
- (9) "capital cost" is as defined in the Act;
- (10) "council" means the Council of the municipality;
- (11) "credits" are defined as per Sections 8 and 9 of this by-law;
- (12) "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 does not include temporary

structures, including but not limited to, seasonal hoop structures, seasonal fabric structures, tents, produce sales stands or temporary sales offices not used for the purposes of habitation;

- (13) "development charge" is as defined in the Act;
- (14) "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 access to culinary and/or sanitary facilities;
- (15) "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;
- (16) "front-ending agreement" is as defined in the Act;
- (17) "grade" means the average level of finished ground adjoining a building or structure at all exterior walls;
- (18) "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 another dwelling unit 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;

- (19) "local board" is as defined in the Act;
- (20) "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 or are to be installed or paid for by the owner as a condition of approval under Sections 51 or 53 of the *Planning Act*;
- (21) "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, tent trailer or seasonal mobile home;
- (22) "municipality" means The Corporation of the Town of Niagara-on-the-Lake;
- (23) "non profit" means any organizations that are incorporated under the Ministry of Community and Social Services and hold a Letter of Patent from the Ministry.

- (24) "non-residential use" means land, buildings or structures or portion thereof used for other than a residential use, but includes short stay rental use;
- (25) "official plan" means the Official Plan of the Town of Niagara-on-the-Lake and any amendments thereto;
- (26) "other multiple family dwellings" means all dwellings, including mobile homes, other than single-family dwellings, semi-detached dwellings and apartment units.
- (27) "place of worship" means any building or part thereof that is owned by a church or religious organization that is exempt from taxation as a place of worship pursuant to the Assessment Act, R.S.O. 1990, c. A.31, as amended;
- (28) "Planning Act" means the *Planning Act*, as amended;
- (29) "rate" means the Bank of Canada rate on the day the by-law comes into force updated on the first business day of every January, April, July and October;
- (30) "regulation" means any regulation made pursuant to the Act;
- (31) "residential use" means land or buildings or structures or portion thereof of any kind whatsoever used, designed or intended to be used as living accommodations for one or more individuals;
- (32) "rural areas" means those areas within the municipality not defined as urban areas;
- (33) "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 no other parts, attached to another dwelling unit where the residential units are not connected by an interior corridor;
- (34) "services in lieu" means those services specified in an agreement made under Section 38 of the Act;
- (35) "servicing agreement" means an agreement between a landowner and the municipality relative to the provision of services to specified lands within the municipality;
- (36) "short stay rental use" means use or intended use for human habitation on a temporary basis for profit (such as a hotel, motel, guest cabin, and boarding, lodging and rooming house);
- (37) "single detached dwelling unit" means a residential building consisting of one dwelling unit and not attached to another structure;
- (38) "subsidized housing units" means any residential use declared by resolution of Council to be subsidized housing;
- (39) "urban area" means that part of the St. Davids community where municipal sanitary sewerage service is available or is expected to be made available during the term of the by-law;

#### SCHEDULE OF DEVELOPMENT CHARGES

2. (1) Subject to the provisions of this by-law, development charges against the land in Schedule C shall be calculated and collected in accordance with the base rates set out in Schedule "B", which relate to the service set out in Schedule "A".
- (2) This by-law does not provide for the phasing in of the schedule of base rates in Schedule "B".
- (3) The development charge with respect to the use of any land, buildings or structures shall be calculated as follows:
  - (a) in the case of residential development, or the residential portion of a mixed-use development, based upon the number and type of dwelling units. This By-law establishes the following categories of residential development:
    - (i) single-detached and semi-detached dwelling units,
    - (ii) two bedroom and larger apartments and one-two bedroom non-apartment multiple dwelling units,
    - (iii) bachelor or one bedroom apartment units, and
    - (iv) all other dwelling unit types.
  - (b) in the case of non-residential development, based on the gross floor area of buildings or structures to be constructed;
  - (c) the urban area charge is applicable to development located within the St. Davids community as set out in Schedule "C", where municipal sanitary sewerage service is available or is expected to be made available during the term of the by-law.
  - (d) The policies and provisions of this by-law apply only to the lands designated in Schedule "C" and should not be taken as indicative of the policies or provisions which the Town might apply generally or to other areas of the Town.
- (4) Council hereby determines that the development of land, buildings or structures for residential or non-residential uses have required or will require the provision, enlargement, expansion or improvement of the service referenced in Schedule "A".

#### APPLICABLE LANDS

3. (1) Subject to subsections (2), (3), (4), (5) and (6), this by-law applies to all lands in Schedule C, whether or not the land or use is exempt from taxation under Section 3 of the *Assessment Act*.
- (2) This by-law shall not apply to land that is owned by and used for the purposes of:
  - (a) a board of education as defined in Subsection 1(1) of the *Education Act*;
  - (b) any municipality or local board thereof;
  - (c) the development of a non-residential farm building used for bona fide agricultural purposes;
  - (d) that portion of a place of worship which is used exclusively as a place of worship for religious services and any reception and meeting areas used in connection with, or integral to, the worship space, including hallways,

attached meeting rooms and lobbies and excluding, but not limited to, areas such as office, storage buildings, kitchen, classrooms, fellowship hall and library;

- (3) This by-law shall not apply to:
    - (a) the enlargement of the gross floor area of an existing industrial building, if the gross floor area is enlarged by 50 percent or less and assuming that no previous expansions have taken place since 1991;
    - (b) for the purpose of subsection (a) the terms "gross floor area" and "existing industrial building" shall have the same meaning as those terms have in O.Reg. 82/98 made under the Act;
    - (c) Notwithstanding subsection (a), if the gross floor area is enlarged by more than 50 percent, development charges shall be calculated and collected in accordance with Schedule B in the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement.
  - (4) No development charge shall be levied for:
    - (a) one single detached unit per property which is subject to the Town's sanitary sewerage frontage charge for lots of record existing as of May 12, 2003 or where the frontage charge has been prepaid;
    - (b) the replacement of a demolished building with a building containing the same or fewer dwelling units;
    - (c) the first dwelling unit in any plan of subdivision created subsequent to May 12, 2003.
  - (5) This by-law shall not apply to that category of exempt development described in subsection 2(3) of the *Development Charges Act, 1997*, and Section 2 of O.Reg. 82/98.
  - (6) 50% of the development charges otherwise applicable shall be levied against non-profit special care or non-profit retirement homes in a building containing more than ten dwelling units.
  - (7) Where a conflict exists between the provision of this By-law and any other signed pre-existing agreement between the Town and the owner, with respect to land to be charged under this By-law, the provisions of such agreement prevail to the extent of the conflict.
4. (1) Subject to subsection (2), development charges shall apply to, and shall be calculated and collected in accordance with, the provisions of this by-law on land to be developed for residential and non-residential use, where the development requires,
- (i) the passing of a zoning by-law or of an amendment thereto 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.
- (2) Subsection (1) shall not apply in respect of:
- (a) local services related 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*;
  - (b) local services to be installed or paid for by the owner as a condition of approval under section 53 of the *Planning Act*;
- (3) It is hereby declared by Council that all development of land within the area to which this By-law applies, will increase the need for services.

#### EXISTING AGREEMENTS

5. An agreement with respect to charges related to development registered prior to passage of this by-law remains in effect after enactment of this by-law.

#### LOCAL SERVICE INSTALLATION

6. Nothing in this by-law prevents Council from requiring, as a condition of an agreement under section 41, 51 or 53 of the *Planning Act*, that the owner, at his or her own expense, shall install such local services within the plan of subdivision and otherwise, as Council may require, or that the owner pay for local connections to water mains, sanitary sewers and/or storm drainage facilities installed at the owner's expense.

#### MULTIPLE CHARGES

7. (1) Where two or more of the actions described in Section 4(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), more than one development charge may apply to the same area where there is no duplication in the servicing costs being recovered.

#### CREDITS

8. (1) Council shall give a development charge credit to a person allowed by Council to perform work that relates to the service in Schedule A and addressed in the project costing on which the Background Study is based.
- (2) The amount of such credit is the reasonable cost of doing the work, as agreed by the municipality and the person given the credit, prior to the issuance of the first building permit related thereto, provided that such cost does not involve an increase in the average level of service in the Town and the credit is only in relation to the service to which the work relates.
- (3) In the case of the demolition of all or part of a residential or non-residential building or structure:

- (a) a development charge credit shall be allowed, provided that a building permit has been issued for the development or redevelopment within five years from the date the demolition permit has been issued;
- (b) if a development or redevelopment involves the demolition of and replacement of a building or structure, or the conversion from one principal use to another, a credit shall be allowed equivalent to:
  - (1) the number of dwelling units demolished/converted, multiplied by the applicable residential development charge in place at the time the development charge is payable. The credit can, in no case, exceed the amount of the development charge that would otherwise be payable, and/or
  - (2) 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. The credit can, in no case, exceed the amount of the development charge that would otherwise be payable.

#### FRONT-ENDING AGREEMENTS

- 9. (1) The Town may enter into a front-ending agreement with respect to work done after the agreement is entered into, related to the provision of services for which there will be an increased need as a result of development, benefiting a defined area, to which the land and service(s) the Town's development charge by-law applies.
- (2) Such agreement may provide for persons developing land within the defined area to reimburse some part of the costs of the work.
- (3) A person is entitled to be given a credit towards a development charge for the amount of his non-reimbursable share of the costs of work under a front-ending agreement.

#### TIMING OF CALCULATION AND PAYMENT

- 10. (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 by the Act or this by-law, 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, or in a manner or at a time otherwise lawfully agreed upon.
- (2) 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.
- (3) Notwithstanding subsections (1) and (2), an owner may enter into an agreement with the municipality to provide for the payment in full of a development charge before building permit issuance or later than the issuing of a building permit and any such agreement may be registered on title.

#### BY-LAW REGISTRATION

- 11. A certified copy of this by-law or agreement thereunder may be registered on title to any land to which this by-law applies.



#### RESERVE FUND(S)

12. (1) Monies received from payment of development charges plus interest earned thereon, shall be maintained in a separate reserve fund for the one category of service to which the development charge relates, and may be spent only for capital costs determined under paragraphs 2 to 8 of subsection 5(1) of the Act.
- (2) Where the Town borrows money from this reserve fund, it shall repay the amount used, plus interest, at a rate no less than the prescribed minimum interest rate.
- (3) 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 in the same manner as taxes.
- (4) Where any unpaid development charges are collected as taxes under subsection (3), the monies so collected shall be credited to the development charge reserve fund referred to in subsection (1).
- (5) The Treasurer of the Municipality shall, in each year on or before May 1, commencing in 2015 for the 2014 year, furnish to Council a statement in respect of the reserve fund established hereunder for the prior year, containing the information set out in Section 43 of the Act and Sections 12 and 13 of O.Reg. 82/98.

#### BY-LAW AMENDMENT OR REPEAL

13. (1) Where this by-law or any development charge prescribed thereunder is amended or repealed either by order of the Ontario Municipal Board or by resolution of the Municipal Council, the Municipal Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal.
- (2) In the case of a repeal by the Ontario Municipal Board, the municipality shall refund any development charge paid under the by-law.
- (3) In the case of a development charge by-law amendment by the Ontario Municipal Board, the municipality shall refund the difference between any development charge paid under the by-law and the development charge that would have been payable under the by-law as amended.
- (4) Such refunds are to be made within thirty days after the repeal or amendment.
- (5) The municipality shall pay interest on an amount it refunds at a rate not less than the prescribed minimum interest rate from the time the amount was paid to it, to the time it is refunded.

#### DEVELOPMENT CHARGE SCHEDULE INDEXING

14. The development charges referred to in Schedule "B" shall be adjusted annually, without amendment to this by-law, commencing in January, 2015, and annually thereafter in each January while this by-law is in force, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, Construction Price Statistics, Catalogue Number 62-007 or 2.5% per year, whichever is less.

#### BY-LAW ADMINISTRATION

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

SCHEDULES TO THE BY-LAW

16. The following schedules to this by-law form an integral part of this by-law:

Schedule "A" – Designated Municipal Service

Schedule "B" – St. Davids Community Area-specific Development Charge for the Sanitary Sewerage Service

Schedule "C" – St. Davids Community Lands Which are Subject to an Area-Specific Sanitary Sewerage Development Charge.

DATE BY-LAW EFFECTIVE

17. This by-law shall come into force and effect on January 1, 2014.

18. Each of the clauses of the by-law is separate and independent, and in the event that any clause of this by-law is found, for any reason, to be invalid, the remainder of the by-law shall continue in full force and effect and the by-law shall be read as if such invalid clause was not contained therein.

SHORT TITLE

19. This by-law may be cited as the St. Davids Area-Specific Sanitary Sewerage Development Charge By-law.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 18<sup>th</sup> DAY OF NOVEMBER, 2013



LORD MAYOR DAVE EKE



TOWN CLERK HOLLY DOWD

**SCHEDULE A**  
TOWN OF NIAGARA-ON-THE-LAKE (ST. DAVIDS COMMUNITY)  
DESIGNATED MUNICIPAL SERVICE

1. Urban Service

1.1 Sanitary Sewerage

**SCHEDULE B**

**ST. DAVIDS COMMUNITY AREA-SPECIFIC DEVELOPMENT CHARGE  
FOR THE SANITARY SEWERAGE SERVICE**

Uses of Land, Buildings or Structures	RESIDENTIAL DEVELOPMENT CHARGE (PER DWELLING UNIT)				NON- RESIDENTIAL DEVELOPMENT CHARGE Per Sq.ft. of Gross Floor Area (GFA)
	Single Detached and Semi- Detached Dwellings	2 Bedroom and Larger Apt. and 1-2 Bedroom Multiple Family Dwelling Units	Bachelor and One Bedroom Apt. Dwellings	All Other Dwelling Unit Types	
Service					
Sanitary Sewerage Service	\$1,530	\$969	\$637	\$1,105	\$0.85

**SCHEDULE C**

**ST. DAVIDS COMMUNITY LANDS WHICH ARE SUBJECT TO AN  
AREA-SPECIFIC SANITARY SEWERAGE DEVELOPMENT CHARGE**

