

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW NUMBER 2006-290

A BY-LAW TO ESTABLISH DEVELOPMENT CHARGES FOR THE CORPORATION OF THE CITY OF KAWARTHA LAKES – SOUTH EAST DEVELOPMENT AREA
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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 Kawartha Lakes (“City of Kawartha Lakes”) 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 Kawartha Lakes 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 August 31, 2006;

AND WHEREAS the Council of the City of Kawartha Lakes had before it a report entitled City of Kawartha Lakes Area Specific Development Charge Background Study/Municipal Act Capital Charge Study – South East Development Area dated August 15, 2006 prepared by C.N. Watson and Associates Ltd., wherein it is indicated that the development of any land within the South East Development Area will increase the need for services as defined herein;

AND WHEREAS the Council of the City of Kawartha Lakes on August 31, 2006 approved the applicable Area-Specific Development Charges Background Study/Municipal Act Capital Charge Study – South East Development Area, dated August 15, 2006, in which certain recommendations were made relating to the establishment of a development charge policy for the South East Development Area pursuant to the *Development Charges Act, 1997*;

AND WHEREAS the Council of the City of Kawartha Lakes on August 31, 2006 determined that no additional public meeting was required.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF KAWARTHA LAKES ENACTS THIS BY-LAW 2006-290.

DEFINITIONS

1. In this by-law,

(1) “Act” means the *Development Charges Act, S.O. 1997, c. 27*;

(2) “Board of education” means a board defined in s.s. 1(1) of the *Education Act*,

(3) “Building Code Act” means the *Building Code Act, R.S.O. 1990, c.B.-13*, as amended;

- (4) "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) materials 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.
- (5) "Council" means the Council of The Corporation of the City of Kawartha Lakes;
- (6) "Commercial" means a building used for any use other than for residential, institutional or industrial uses;
- (7) "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;
- (8) "Development charge" means a charge imposed pursuant to this By-law;
- (9) "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;
- (10) "Grade" means the average level of finished ground adjoining a building or structure at all exterior walls;
- (11) "Gross floor area" means the total floor area measured between the outside of exterior walls, or between the outside of exterior walls and the centre line 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 walls.
- (12) "Industrial Use" means uses for manufacturing, warehousing, storage and assembly/packaging, and includes shop areas;

- (13) "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;
- (14) "Lands" means the lands described in Schedule "C" attached;
- (15) "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;
- (16) "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*;
- (17) "Municipality" means The Corporation of the City of Kawartha Lakes;
- (18) "Non-residential uses" means a building or structure used for other than a residential use;
- (19) "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;
- (20) "Planning Act" means the *Planning Act*, R.S.O. 1990, c.P.-13, as amended;
- (21) "Regulation" means any regulation made pursuant to the Act;
- (22) "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, and the residential portion of a mixed-use building or structure;
- (23) "Services" means services set out in Schedule "A" to this By-law;
- (24) "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" attached, shall be imposed, calculated and collected in accordance with the base rates set out in Schedule "B" applicable to the developable area as set out in Schedule "D".

- (2) The Service to which the Development Charges relate are set out in Schedule "A"
- (3) The Development Charge with respect to the use of any land, buildings or structures shall be calculated as the total of the developable area, as defined in Schedule "D" attached, included in the application, multiplied by the base rate set out in Schedule "B".
- (4) 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 subsections (3) and (4), this by-law applies to all those lands known as the South East Development Area, as particularly described in Schedule "C" attached hereto 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) Development Charges imposed pursuant to this By-law shall be in addition to any development charge imposed upon the lands described in Schedule "C" attached hereto by By-Law No. 2004-164, being the City's Development Charges By-law, 2004.
- (3) 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.
- (4) This bylaw shall not apply to that category of exempt Development described in subsection 2(3) and section 4 of the Act, and Section 2 of O.Reg. 82/98.

DEVELOPMENT CHARGES IMPOSED

5. (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 50 of the *Condominium Act*, R.S.O. 1990, c.C.-26; 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

6. 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

7. (1) Where two or more of the actions described in subsection 5(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 5(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

8. (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 that 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.

TIMING OF CALCULATION AND PAYMENT

9. (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 the Lands to which a development charge applies, less any amount paid pursuant to subsection (2).
- (2) Notwithstanding subsection (1), the timing of calculation and payment of the Development Charge with respect to an approval of a Plan of Subdivision under Section 51 of the *Planning Act, R.S.O., 1990* as amended, shall be addressed in the subdivision agreement, subject to any applicable exemptions contained in this By-law, and calculated in accordance with Section 2 of this bylaw.
- (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

10. (1) Monies received from payment of development charges under this by-law shall be maintained in two separate reserve funds as follows: Sanitary Sewer Services and Water Works Services to which the development charge payments shall be credited in accordance with the amounts shown, plus interest earned thereon.
- (2) Monies received for the payment of development charges shall be used only in accordance with the provisions of Section 35 of the Act.

- (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 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 funds referred to in subsection (1).
- (5) 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

11. (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) 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

12. The development charges set out in Schedule "B" to this by-law shall be adjusted annually on January 1st, without amendment to the by-law, in accordance with the twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics".

SEVERABILITY

13. 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

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

BY-LAW REGISTRATION

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

BY-LAW ADMINISTRATION

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

SCHEDULES TO THE BY-LAW

17. 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 Development Charges

Schedule "C" - Map of South East Development

Schedule "D" - Schedule of Developable Land

DATE BY-LAW EFFECTIVE

18. This By-law shall come into force and effect on the date it is finally passed.

DATE BY-LAW EXPIRES

19. This by-law will expire on October 10, 2011 unless it is repealed by Council at an earlier date.

SHORT TITLE

20. This by-law may be cited as the "City of Kawartha Lakes Development Charge By-law – South East Development Area, 2006."

By-law read a first, second and third time, and finally passed, this 10th day of October, 2006.

MAYOR

CLERK

SCHEDULE "A"
TO BY-LAW NO. 2006 - 290

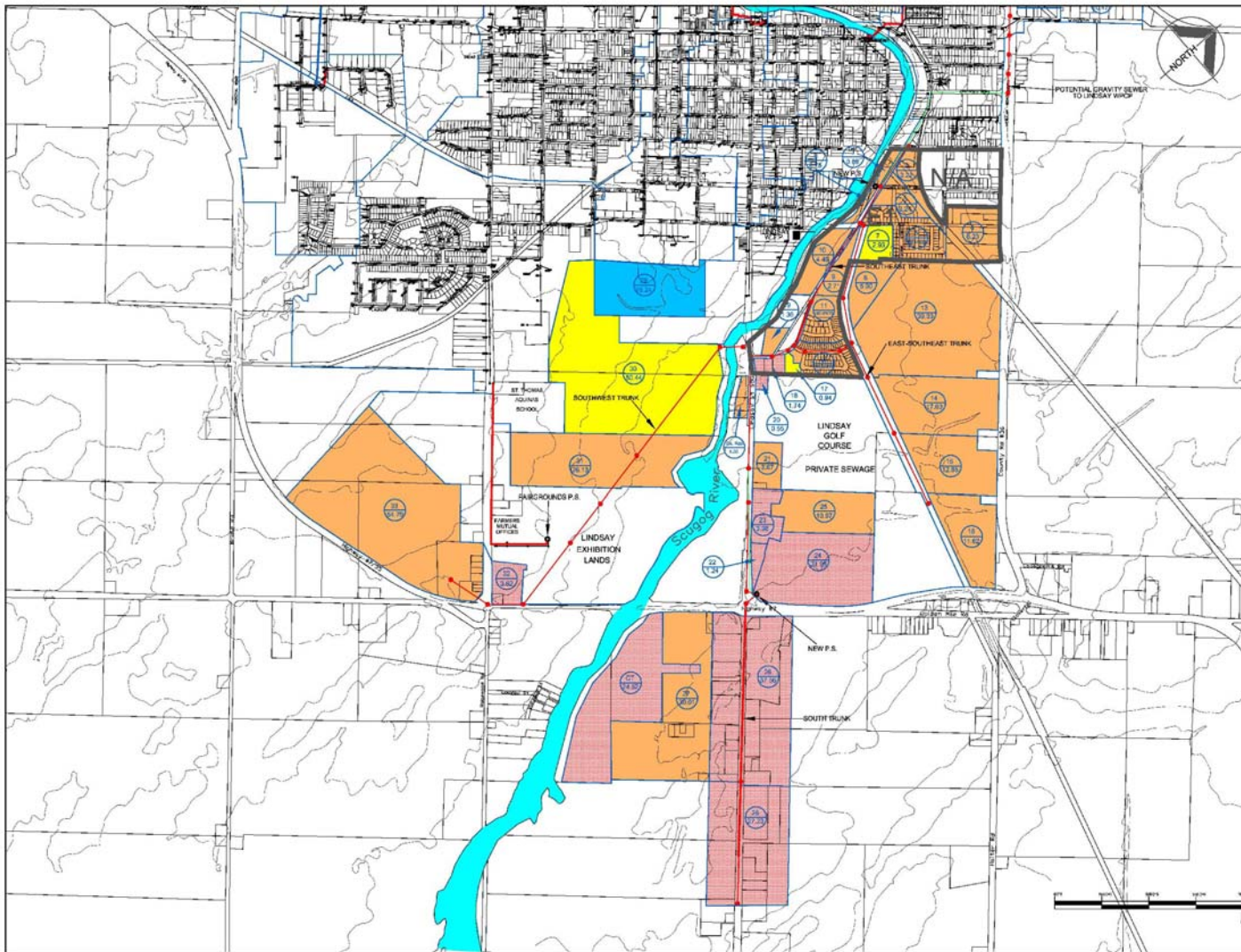
DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

1. Sanitary Sewer Services;
2. Water Services

SCHEDULE "B"
TO BY-LAW NO. 2006 - 290
SCHEDULE OF AREA-SPECIFIC DEVELOPMENT CHARGES
FOR THE SOUTH EAST DEVELOPMENT AREA

Sub-Area	Development Charges (per hectare)		
	Sanitary Sewer	Water Works	Total
NA	\$302	\$-	\$302
E1	25,252	19,210	44,462

SCHEDULE "C"
TO BY-LAW NO. 2006 - 290 - MAP OF SOUTH EAST DEVELOPMENT



SCHEDULE "D"
TO BY-LAW NO. 2006 - 290 - SCHEDULE OF DEVELOPABLE LAND

SANITARY SEWER SERVICES

Area Ref. No.	Development Type	Gross Area (ha.)	Net Developable Area (ha.)	Benefiting Area	Net Developable	
					NA	
NE Area	Residential	13.65	12.29	NA (upstream only)	12.29	
1	Residential	0.89	0.80	E1		
2	Residential	3.07	2.76	E1		
3	Residential	3.24	2.92	E1		
4	Residential	6.05	5.45	E1		
5 - 104 Units	Residential	5.20	4.68	E1		
6	Residential	0.75	0.68	E1		
7	Institutional	2.93	2.93	E1		
9	Residential	2.71	2.44	E1		
10	Residential	4.49	4.04	E1		
11 - 180 Units	Residential	9.00	8.10	E1		
12 - 100 Units	Residential	5.00	4.50	E1		
17	Institutional	0.94	0.94	E1		
18	Commercial	1.74	1.74	E1		
19	Residential	1.36	1.22	E1		

WATER SERVICES

Area Ref. No.	Development Type	Gross Area (ha.)	Net Developable Area (ha.)	Benefiting Area	Net Developable	
					NA	
9	Residential	2.71	2.44	E1		
10	Residential	4.49	4.04	E1		
11 - 180 Units	Residential	9.00	8.10	E1		
12 - 100 Units	Residential	5.00	4.50	E1		
17	Institutional	0.94	0.94	E1		
18	Commercial	1.74	1.74	E1		
19	Residential	1.36	1.22	E1		

