
THE MUNICIPALITY OF MIDDLESEX CENTRE
BY-LAW NUMBER 2009-062

**BEING A BY-LAW TO ESTABLISH MUNICIPAL-WIDE DEVELOPMENT CHARGES FOR
NON-ENGINEERED SERVICES
AND TO REPEAL BY-LAW 2004-106, AS AMENDED.**

WHEREAS subsection 2(1) of the *Development Charges Act, 1997, S.O. 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 Municipality of Middlesex Centre ("Municipality of Middlesex Centre") has given Notice in accordance with Section 12 of the *Development Charges Act, 1997, S.O. 1997, c. 27* of its intention to pass a by-law under Section 2 of the said Act;

AND WHEREAS the Council of the Municipality of Middlesex Centre has heard all persons who applied to be heard either in objection to, or in support of, the development charge proposal at a public meeting held on June 10, 2009;

AND WHEREAS the Council of the Municipality of Middlesex Centre had before it a report entitled Development Charge Background Study for the Non-Engineered Services (Municipal-wide) Development Charge By-law dated May 22, 2009 (as amended by an Addendum dated July 14, 2009), prepared by Watson & Associates Economists Ltd., wherein it is indicated that the development of any land within the Municipality of Middlesex Centre will increase the need for services as defined herein;

AND WHEREAS the Council of the Municipality of Middlesex Centre on July 22, 2009 approved the Development Charge Background Study dated May 22, 2009 (as amended by an Addendum dated July 14, 2009), in which certain recommendations were made relating to the establishment of a development charge policy for the Municipality of Middlesex Centre pursuant to the *Development Charges Act, 1997, S.O., 1997, c. 27*.

AND WHEREAS the Council of the Municipality of Middlesex Centre has determined that no further public meeting is required in accordance with subsection 12(3) of the Act.

NOW THEREFORE BE IT ENACTED as a By-law of the Municipality of Middlesex Centre as follows:

DEFINITIONS

1. In this by-law,

- (1) "Act" means the *Development Charges Act, 1997, S.O. 1997, c.27*;
- (2) "Accessory use" means a use of land, buildings or structures which is incidental and subordinate to the principal use of the lands and buildings;
- (3) "Agricultural use" means a farming business as defined by the Farmland Property Tax Program of the *Farm Registration and Farm Organizations Funding Act, 1993*;

- (4) “Apartment dwelling” means any dwelling unit within a building containing more than four dwelling units where the units are connected by 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) “Board of education” means a board defined in s.s. 1(1) of the *Education Act*, R.S.O. 1990, c.E.2, as amended;
- (7) “Building Code Act” means the *Building Code Act*, 1992, S.O. 1992, c.23, as amended;
- (8) “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 (but not limited to),
 - (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, as amended, 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;
- (9) “Council” means the Council of the Municipality of Middlesex Centre;
- (10) “Development” means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 4 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;
- (11) “Development charge” means a charge imposed pursuant to this By-law;

- (12) “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;
- (13) “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;
- (14) “Grade” means the average level of finished ground adjoining a building or structure at all exterior walls;
- (15) “Gross floor area” means,
- (a) in the case of a residential building or structure, or in the case of a mixed-use building or structure with respect to the residential portion thereof, 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;
 - (b) 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;
- (16) “Industrial” means industrial uses as permitted by the Municipality of Middlesex Centre’s Zoning By-laws, as amended or replaced from time to time;
- (17) “Local board” means 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 other than a board defined in section 1(1) of the *Education Act*, R.S.O, 1990, c.E.2, as amended;
- (18) “Local services” means those services or facilities which are under the jurisdiction of the municipality and are related to a plan of subdivision or consent or within the area to which the plan relates, required as a condition of approval under s.51 or s.53 of the *Planning Act*, 1990, R.S.O, 1990 c.P.13, as amended;
- (19) “Multiple dwelling” means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;
- (20) “Municipality” means the Municipality of Middlesex Centre;
- (21) “Non-residential uses” means a building or structure used for other than a residential use;
- (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;
- (23) “Planning Act” means the *Planning Act*, 1990, R.S.O. 1990, c.P.13, as amended;
- (24) “Regulation” means any regulation made pursuant to the Act;

- (25) “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;
- (26) “Semi-detached dwelling” means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;
- (27) “Services” means services set out in Schedule “A” to this By-law;
- (28) “Single detached dwelling” means a completely detached building containing only one dwelling unit.

SCHEDULE OF DEVELOPMENT CHARGES

- 2. (1) Subject to the provisions of this By-law, development charges against land 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) This by-law does not provide for the phasing in of the schedule of the 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 redevelopment, or the residential portion of a mixed-use development or redevelopment, based upon the number and type of dwelling units;
 - (b) in the case of non-residential development or redevelopment, or the non-residential portion of a mixed-use development or redevelopment, based upon the gross floor area of such development.
- (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”.

APPLICABLE LANDS

- 3. (1) Subject to subsections (2), (3), and (6), 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.
- (3) This by-law shall not apply to that category of exempt development described in subsection 2(3) of the *Act* and Section 2 of O.Reg. 82/98, namely:
 - (a) the enlargement of an existing dwelling unit or the creation of one or two additional dwelling units in an existing single detached house where the total residential gross floor area of the dwelling units created does not

exceed the residential gross floor area of the existing dwelling unit prior to the enlargement; or

- (b) the creation of one additional dwelling unit in any other existing residential building provided the residential gross floor area of the additional dwelling unit does not exceed the residential gross floor area of the smallest existing dwelling unit in the case of a semi-detached house, or does not exceed the residential gross floor area of the smallest existing dwelling unit contained in any other residential building.
- (4) Notwithstanding subsection (3)(a), development charges shall be calculated and collected in accordance with Schedule "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.
 - (5) Notwithstanding subsection (3)(b), development charges shall be calculated and collected in accordance with Schedule "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 smallest existing dwelling unit, and
 - (b) in the case of any other residential building, the residential gross floor area of the smallest existing dwelling unit.
 - (6) This by-law does not apply to that category of exempt development described in section 3(2) and Section 1 of O.Reg. 82/98, namely:
 - (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;
 - (b) for the purpose of (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.
 - (7) Notwithstanding subsection (6)(a), if the gross floor area of an existing industrial building is enlarged by more than 50 percent, development charges shall be calculated and collected in accordance with Schedule "B" on the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement.
4. (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 use, where, the development requires,
- (i) the passing of a zoning by-law or 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 49(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*, R.S.O. 1990, c.C.26, as amended, or
 - (vii) 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

5. 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 or pay for such local services, as Council may require.

MULTIPLE CHARGES

6. (1) Where two or more of the actions described in subsection 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), if two or more of the actions described in subsection 4(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 non-residential floor area, shall be calculated and collected in accordance with the provisions of this by-law.

SERVICES IN LIEU

7. (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 7(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 REDEVELOPMENT

8. In the case of the demolition 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 and a building permit was issued for the development or redevelopment within the five year period from the date of issuance of the demolition permit or alternative evidence of the date of the demolition satisfactory to the Municipality;
 - (2) 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:
 - (a) the number of dwelling units demolished/converted on the land multiplied by the applicable residential development charge in place at the time the development charge is payable, and/or
 - (b) the non-residential gross floor area of the building(s) demolished/converted on the land multiplied by the current applicable non-residential development charge in place at the time the development charge is payable.
 - (c) notwithstanding subsection (2)(b), if the building demolished on the land is a farm building, the gross floor area of any farm building demolished on the land, and, on a one time basis, on any other lands owned by the current owner in the Municipality multiplied by the applicable non-residential development charge in place at the time the development charge is payable.
 - (d) The credit can, in no case, exceed the amount of the development charge that would otherwise be payable.

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 land to which a development charge applies.
- (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.

RESERVE FUNDS

10. (1) Monies received from payment of development charges shall be maintained in two separate reserve funds as follows: protection service; parkland development/major indoor recreation facility/library/administration (studies) services.
- (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) Council directs the Treasurer to divide the reserve funds created hereunder into separate subaccounts in accordance with the service sub-categories set out in Schedule "A" to which the development charge payments shall be credited in accordance with the amounts shown, plus interest earned thereon.
- (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 (5), the monies so collected shall be credited to the development charge reserve fund referred to in subsection (1).
- (6) The Treasurer of the Municipality shall, in each year commencing in 2010 for the 2009 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 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 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 1, commencing in 2011, without amendment to this by-law, in accordance with the most recent available twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics".

BY-LAW REGISTRATION

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

BY-LAW ADMINISTRATION

- 14. This by-law shall be administered by the Treasurer.

SEVERABILITY

15. 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 the By-law shall remain in full force and effect.

HEADINGS FOR REFERENCE ONLY

16. 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.

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 Municipal Services
 Schedule B - Schedule of Municipal-Wide Development Charges – Non-Engineered Services

EXISTING BY-LAW REPEAL

18. Municipality of Middlesex Centre By-law 2004-106, as amended is repealed as of August 1, 2009.

DATE BY-LAW EFFECTIVE

19. This By-law shall come into force and effect on August 1, 2009.

BY-LAW EXPIRY

20. This By-law shall expire on July 31, 2014.

SHORT TITLE

21. This by-law may be cited as the “Municipality of Middlesex Centre Non-engineered Services Development Charge By-law, 2009.”

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED on this 22nd day of July, 2009.

Mayor

Clerk

SCHEDULE "A"
TO BY-LAW # 2009-062
DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

1. Protection Service
2. Major Indoor Recreation Facility and Parkland Development Service
3. Administration Service (Major Development Related Studies – General)
4. Library Service

MUNICIPALITY OF MIDDLESEX CENTRE

SCHEDULE B
BY-LAW NO. 2009 - _____

SCHEDULE OF MUNICIPAL-WIDE DEVELOPMENT CHARGES

SERVICE	PER RESIDENTIAL UNIT				NON-RESIDENTIAL (per s.m. of Gross Floor Area)		
	Single and Semi-Detached	Apartments 2 Bedrooms +	Apartments Bachelor or 1 Bedroom	Other Multiples	Other Non-Residential	Agricultural	Industrial
	Protection	\$361	\$208	\$157	\$253	\$ 0.56	\$ 0.14
Parks and Recreation	\$2,278	\$1,314	\$993	\$1,598	\$ 1.17		\$ 0.47
Libraries	\$82	\$47	\$36	\$57	\$ 0.04		\$ 0.02
Major Development Related Studies (General)	\$176	\$101	\$77	\$123	\$ 1.40		\$ 0.56
TOTAL	\$2,897	\$1,670	\$1,263	\$2,031	\$ 3.17	\$ 0.14	\$ 1.27