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**THE CORPORATION OF THE TOWNSHIP OF  
SMITH-ENNISMORE-LAKEFIELD**

**BY-LAW NO. 2008- 071**

**A by-law to establish area-specific development charges for Lakefield South New  
Development Area in the Corporation of the Township of Smith-Ennismore-Lakefield**

**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 Township of Smith-Ennismore-Lakefield (“Township of Smith-Ennismore-Lakefield”) 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 Township of Smith-Ennismore-Lakefield 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 September 3, 2008;

**AND WHEREAS** the Council of the Township of Smith-Ennismore-Lakefield had before it a report entitled Township of Smith-Ennismore-Lakefield Area-Specific Development Charges Background Study, Re: Extension of Municipal Services to the Lakefield South New Development Area dated August 18, 2008 (as amended) prepared by Watson & Associates Economists Ltd., wherein it is indicated that the development of any land within the area designated in Schedule “C” will increase the need for services as defined herein;

**AND WHEREAS** the Council of the Township of Smith-Ennismore-Lakefield on September 9, 2008 approved the Township of Smith-Ennismore-Lakefield Area-Specific Development Charges Background Study, Re: Extension of Municipal Services to the Lakefield South New Development Area dated August 18, 2008 (as amended), in which certain recommendations were made relating to the establishment of an area-specific development charge policy for the Township of Smith-Ennismore-Lakefield pursuant to the *Development Charges Act, 1997*;

**AND WHEREAS** the Council of the Township of Smith-Ennismore-Lakefield at their meeting on September 9, 2008 determined that no additional public meeting was required.

**NOW THEREFORE THE COUNCIL OF THE TOWNSHIP OF SMITH-ENNISMORE-LAKEFIELD ENACTS AS FOLLOWS:**

**DEFINITIONS**

1. In this by-law,

- (1) "Act" means the *Development Charges Act*, 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) "Apartment" 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;
- (4) "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;
- (5) "Board of education" means a board defined in s.s. 1(1) of the *Education Act*;
- (6) "Building Code Act" means the *Building Code Act*, S.O. 1992, c. 23, as amended;
- (7) "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;

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- (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, 1984, S.O. 1984, c. 57, 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.

- (8) “Commercial” means any use of land, structures or buildings for the purposes of buying or selling commodities and services, but does not include, retirement/long-term care facilities, industrial or agricultural uses, but does include hotels, motels, motor inns and boarding, lodging and rooming houses;
- (9) “Council” means the Council of The Corporation of the Township of Smith-Ennismore-Lakefield;
- (10) “Development” means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 7 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;

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- (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) “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, including school purposes, of the municipality or any part or parts thereof;
- (14) “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;
- (15) “Multiple dwelling” means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;
- (16) “Municipality” means The Corporation of the Township of Smith-Ennismore-Lakefield;
- (17) “Non-residential uses” means a building or structure used for other than a residential use;
- (18) “Not-for-profit housing” means housing which is or is intended to be offered primarily to persons or families of low income on a leasehold or co-operative basis and which is owned or operated by:
- a. A non-profit corporation being a corporation, no part of the income of which is payable to or otherwise available for the personal benefit of a member or shareholder thereof; or
  - b. A non-profit housing co-operative having the same meaning as in the Cooperative Corporations Act.
- (19) “Official Plan” means the Official Plan of the Township of Smith-Ennismore-Lakefield (or of the former pre-amalgamation municipalities) and any amendments thereto;
- (20) “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;

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- (21) "Phase 1A lands" means lands designated as Phase 1A in Official Plan Amendment No. 6;
- (22) "Planning Act" means the *Planning Act*, R.S.O. 1990, c.P.-13, as amended;
- (23) "Public hospital" means that part of a building or structure that is defined as a public hospital under the *Public Hospitals Act*, R.S.O. 1990, c.P.40;
- (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) "Retirement suites" means a room or suite or rooms providing separate and independent residential occupancy but is not a self containing dwelling unit because of limited kitchen dining facilities and in which the occupants require access to other parts of the facility for centralized eating and dining area services;
- (27) "Retirement/Long Term Care Facility" means a residential building containing residential suites, providing residence mostly to senior citizens and in which certain centralized services and activities including eating and dining areas are provided and may also include personal services, recreational and other supportive service and care, and in which an office for 1 doctor may also be located;
- (28) "Semi-detached dwelling" means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;
- (29) "Services" means municipal services set out in Schedule "A" to this By-law;
- (30) "Single detached dwelling" means a completely detached building containing only one dwelling unit.

- (31) "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*, R.S.O. 1990, Chap. A.31, as amended, or any successor thereof;

### **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 part (i) of Schedule "B" which relate to the services set out in Schedule "A".
- (2) Notwithstanding subsection (1), if an agreement in accordance with Section 27 of the Act is entered into with the Township to pay development charges in advance of the date they otherwise would become payable, then development charges against land shall be imposed, calculated and collected in accordance with the base prepaid rates set out in part (ii) of Schedule "B" which relate to the services set out in Schedule "A".
- (3) The development charge with respect to the uses of any land, building or structure shall be calculated as the sum of the product of the number of dwelling units of each type multiplied by the corresponding total amount for such dwelling unit type, as set out in Schedule "B";
- (4) Council hereby determines that the development or redevelopment of land, buildings or structures for 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 Sections 5 and 6, this by-law applies to lands shown in Schedule "C" within the Lakefield South benefiting area, 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.

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- (2) This by-law shall not apply to lands owned by and used for the purposes of:
- (a) a board of education;
  - (b) any municipality or local board thereof.

**RULES WITH RESPECT TO EXEMPTIONS FOR INTENSIFICATION OF EXISTING HOUSING**

5. (1) Notwithstanding Section 4 above, no development charge shall be imposed with respect to developments or portions of developments as follows:
- (a) the enlargement of an existing residential dwelling unit;
  - (b) the creation of one or two additional residential dwelling units in an existing single detached dwelling where the total gross floor area of each additional unit does not exceed the gross floor area of the existing dwelling unit;
  - (c) the creation of one additional dwelling unit in any other existing residential building provided the gross floor area of the additional unit does not exceed the smallest existing dwelling unit already in the building.
- (2) Notwithstanding subsection 5(1)(b), 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.
- (3) Notwithstanding subsection 5(1)(c), 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 existing dwelling unit, and
  - (b) in the case of any other residential building, the residential gross floor area of the smallest existing dwelling unit.

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## **OTHER EXEMPTIONS**

6. Notwithstanding Section 4, development charges shall not apply to lands, buildings or structures used or to be used for the purposes of:
- (a) Hospitals under the *Public Hospitals Act*;
  - (b) Places of Worship;
  - (c) Industrial buildings;
  - (d) Non-residential farm buildings; and
  - (e) Not-for-profit housing.

## **DEVELOPMENT CHARGES IMPOSED**

7. (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 use, where, the development requires,
- a) the passing of a zoning by-law or an amendment thereto under Section 34 of the *Planning Act*, R.S.O. 1990, c.P.-13;
  - b) the approval of a minor variance under Section 45 of the *Planning Act*, R.S.O. 1990, c.P.-13;
  - c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act*, R. S.O. 1990, c.P.-13 applies;
  - d) the approval of a plan of subdivision under Section 51 of the *Planning Act*, R.S.O. 1990, c.P.-13;
  - e) a consent under Section 53 of the *Planning Act*, R.S.O. 1990, c.P.-13;
  - f) the approval of a description under Section 50 of the *Condominium Act*, S.O. 1998, c. 19; 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

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condition of approval under Section 51 of the *Planning Act*, R.S.O. 1990, c.P.-13;

- (b) local services installed or paid for by the owner as a condition of approval under Section 53 of the *Planning Act*, R.S.O. 1990, c.P.-13.

### **LOCAL SERVICE INSTALLATION**

8. 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**

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

### **SERVICES IN LIEU**

10. (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 10(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 RE-DEVELOPMENT**

11. (1) No credit shall be given if all or part of a residential building or structure is demolished.

### **TIMING OF CALCULATION AND PAYMENT**

12. (1) Development charges shall be calculated and payable in full in money, on the date of registration of a plan of subdivision under section 51 of the *Planning Act*, or a consent obtained under section 53 of the *Planning Act*.
- (2) Notwithstanding subsection (1), if no new plan of subdivision is required and a consent does not apply, then development charges shall be calculated and payable on the date of the first building permit issued in relation to a building or structure on land to which a building permit applies.
- (3) Notwithstanding subsection (1), with the approval of the Township and after prepayment of charges in relation to Phase 1A lands have been secured to the satisfaction of the Township, development charges may be calculated and payable on the date of the first building permit issued in relation to all remaining buildings or structures located on Phase 1A lands to which a building permit applies.
- (4) 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**

13. (1) Monies received from payment of development charges shall be maintained in one reserve fund.
- (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 Municipal Treasurer to divide the reserve fund created hereunder into separate subaccounts in accordance with the service categories set out in Schedule "A" to which the development charge

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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 (4), 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 2009 for the 2008 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**

14.
  - (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**

15. The development charges set out in Schedule "B" to this by-law shall be adjusted annually from the date the by-law comes into force, without amendment to this by-law, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics".

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**BY-LAW REGISTRATION**

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

**SEVERABILITY**

17. 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**

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

**BY-LAW ADMINISTRATION**

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

**SCHEDULES TO THE BY-LAW**

20. The following Schedules to this by-law form an integral part of this by-law:
- Schedule A - Schedule of Municipal Services
  - Schedule B - Area-specific Development Charges for Lakefield South Municipal Services
  - Schedule C - Benefiting Area in which Area-specific Lakefield South Development Charges Apply

**DATE BY-LAW EFFECTIVE**

21. This By-law shall come into force and effect on the day following the date of passage.

**SHORT TITLE**

22. This by-law may be cited as the “Township of Smith-Ennismore-Lakefield Lakefield South Area-Specific Development Charges By-law, 2008.”

Passed by the Council this 9<sup>th</sup> day of September, 2008.

- Original Signed -

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REEVE – Ron Millen

- Original Signed -

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CLERK – Angela Chittick

**SCHEDULE "A"**  
**TO BY-LAW NO. 2008-071**  
**DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW**

1. Roads and Related Service
2. Water Service
3. Sanitary Sewer Service
4. Storm Water Management Service

**SCHEDULE "B"**  
**TO BY-LAW NO. 2008-071**  
**LAKEFIELD SOUTH AREA-SPECIFIC DEVELOPMENT CHARGE RATES**

i) Development Charge Rates (effective September 10, 2008 - September 9, 2009):

	RESIDENTIAL				RETIREMENT/ LONG TERM CARE FACILITY (per ft <sup>2</sup> of GFA)	NON-RESIDENTIAL (per ft <sup>2</sup> of Gross Floor Area)
	Single-Detached Dwelling & Semi- Detached Dwelling	Apartments		Multiple Dwellings		
		2 Bedrooms +	Bachelor & 1 Bedroom			
Area-Specific Development Charge	7,139	4,586	2,999	4,908	4.48	3.10

ii) Prepaid Development Charge Rates\* (effective September 10, 2008 - September 9, 2009):

	RESIDENTIAL				RETIREMENT/ LONG TERM CARE FACILITY (per ft <sup>2</sup> of GFA)	NON-RESIDENTIAL (per ft <sup>2</sup> of Gross Floor Area)
	Single-Detached Dwelling & Semi- Detached Dwelling	Apartments		Multiple Dwellings		
		2 Bedrooms +	Bachelor & 1 Bedroom			
Area-Specific Development Charge	6,918	4,444	2,906	4,756	4.48	3.10

\*Prepaid development charge rates are applicable when an agreement has been entered into with the Township in accordance with subsection 2 (2) of the by-law

i) Development Charge Rates (effective September 10, 2009 - September 10, 2013):

	RESIDENTIAL				RETIREMENT/ LONG TERM CARE FACILITY (per ft <sup>2</sup> of GFA)	NON-RESIDENTIAL (per ft <sup>2</sup> of Gross Floor Area)
	Single-Detached Dwelling & Semi- Detached Dwelling	Apartments		Multiple Dwellings		
		2 Bedrooms +	Bachelor & 1 Bedroom			
Area-Specific Development Charge	7,139	4,586	2,999	4,908	4.48	4.48

ii) Prepaid Development Charge Rates\* (effective September 10, 2009 - September 10, 2013):

	RESIDENTIAL				RETIREMENT/ LONG TERM CARE FACILITY (per ft <sup>2</sup> of GFA)	NON-RESIDENTIAL (per ft <sup>2</sup> of Gross Floor Area)
	Single-Detached Dwelling & Semi- Detached Dwelling	Apartments		Multiple Dwellings		
		2 Bedrooms +	Bachelor & 1 Bedroom			
Area-Specific Development Charge	6,918	4,444	2,906	4,756	4.48	4.48

\*Prepaid development charge rates are applicable when an agreement has been entered into with the Township in accordance with subsection 2 (2) of the by-law



