

BY-LAW 99-2017

THE CORPORATION OF THE TOWN OF ST. MARYS

A by-law for the imposition of development charges

WHEREAS the Town of St. Marys has and will continue to experience growth through development;

AND WHEREAS development requires the provision of physical and other services by the Town;

AND WHEREAS Council desires to ensure that the capital cost of meeting growth related demands for, or the burden on, Town services does not place an undue financial burden on the Town or its taxpayers;

AND 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 Council has before it a report entitled "Town of St. Marys Development Charge Background Study" prepared by Watson and Associates Economists Ltd. dated September 29, 2017, as amended;

AND WHEREAS the Council of The Town of St. Marys has given notice of and held a public meeting on the 24th day of October, 2017 in accordance with the Act and the regulations thereto;

AND WHEREAS the Council of The Town of St. Marys 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 October 24, 2017;

AND WHEREAS the Council of The Corporation of the Town of St. Marys on October 24, 2017 determined that no additional public meeting was required to be held as part of the approval process;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF ST. MARYS HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS

1.1 In this By-law the following items shall have the corresponding meanings:

“Act” means the Development Charges Act, 1997, S.O. 1997, c.27, as amended, or any successor thereof;

“Administration service” means any and all development related studies carried out by the municipality which are with respect to eligible services for which a development charge by-law may be imposed under the Development Charges Act, 1997, S.O. 1997, c.27, as amended, or any successor thereof;

“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;

“Agricultural use” means a bona fide farming operation;

“Apartment Dwelling” means a Residential Dwelling within a building containing five 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 meters, including a den, study, or other similar area, which can be used as sleeping quarters, but does not include a bathroom, living room, dining room or kitchen;

“Benefiting area” means an area defined by 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 set out in the Education Act, R.S.O. 1990, c. E.2, as amended, or any successor thereof;

“Bona Fide Farm Use” means the proposed development will qualify as a farm business operating with a valid Farm Business Registration Number issued by the Ontario Ministry of Agriculture, Food and Rural Affairs on lands assessed in the Farmland Realty Tax Class by the Municipal Property Assessment Corporation pursuant to the Assessment Act, R.S.O. 1990, c.A.31, as amended;

“Building Code Act” means the Building Code Act, 1992, S.O. 1992, c.23, as amended, or any successor thereof;

“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, as required for provision of services designate in this by-law within or outside the Town,

- (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 life of seven years or more,
 - (ii) furniture and equipment other than computer equipment, and
 - (ii) material 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, or any successor thereof;
- (e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d) above, including the development charge background study required for the provision of services designated in this By-law within or outside the municipality;
- (f) interest on borrowing for those expenditures under clauses (a) to (e) above that are growth-related;

“Commercial” means any use of land, structures or buildings or portions thereof used, designed or intended for use for the purposes of buying or selling commodities and services, but does not include industrial or agricultural uses, but does include hotels, motels, motor inns and boarding, lodging and rooming houses;

“Council” means the Council of the Town of St. Marys;

“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 the effect of increasing the size of 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;

“Dwelling, senior citizens” means a dwelling unit used for the purpose of providing accommodation and related facilities for persons of retirement age, and which is owned and operating by a private or government authority, but does not include a nursing home or a home for the aged as defined by the Town of St. Marys Comprehensive Zoning By-law;

“Existing” means the number, use and size that existed as of the date this by-law was passed;

“Existing industrial building” means a building or buildings existing on a site in the Town of St. Marys on January 1st, 2012 or the buildings or structures constructed and occupied on a vacant site pursuant to site plan approval under section 41 of the Planning Act, R.S.O. 1990, c. P.13 (the “Planning Act”) subsequent to January 1, 2012 for which full development charges were paid, and is used for or in connection with,

- a) the production, compounding, processing, packaging, crating, bottling, packaging or assembling of raw or semi-processed goods or materials (“manufacturing”) in not less than seventy-five per cent 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,
- b) research or development in connection with manufacturing in not less than seventy-five per cent of the total gross floor area of the building or buildings on a site,
- c) 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 per cent of the total gross floor area of the building or buildings on the site, or
- d) office or administrative purposes, if they are,
 - (i) carried out with respect to the manufacturing or warehousing; and,
 - (ii) 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 does not include a residential use;

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

“Gross floor area” means:

(a) in the case of a residential building or structure, 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 any other dwelling unit or other portion of a building; and

(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, except for:

- (i) a room or enclosed area within the building or structure above or below that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
- (ii) loading facilities above or below grade; and
- (iii) 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 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;

“Local Board” means a school board, public utility, commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, 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 or any local board as defined in the Development Charges Act, 1997, S.O. 1997, c.27, as amended;

“local services” means those services, facilities or things which are under the jurisdiction of the Town and are related to a plan under Sections 41, 51 or 53 of the Planning Act, R.S.O. 1990, c. P.13, as amended, or any successor thereof, or are within the area to which the plan relates in respect of the lands;

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

“municipality” means the Corporation of the Town of St. Marys;

“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;

“nursing home” means any premises maintained and operated for persons requiring nursing care or in which such care is provided to two or more unrelated persons, but does not include any premises falling under the jurisdiction of Acts as provided for in the Town Comprehensive Zoning By-law;

“Official Plan” means the Official Plan adopted for the Town, as amended and approved;

“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, R.S.O. 1990, Chap. A.31, as amended, or any successor thereof;

“Planning Act” means the Planning Act, 1990, R.S.O. 1990, c.P.13, as amended;

“Rate” means the interest rate established weekly by the Bank of Canada based on Treasury Bills having a term of 91 days;

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

“Residential Dwelling” means a building, occupied or capable of being occupied as a home, residence or sleeping place by one or more persons, containing one or more Dwelling Units but not including motels, hotels, tents, truck campers, tourist trailers, mobile camper trailers or boarding, lodging or rooming houses;

“residential use” means the use of a building or structure or portion thereof for one or more Dwelling Units. This also includes a Dwelling Unit on land that is used for an Agricultural Use;

“row dwelling” means a building containing three or more attached dwelling units in a single row, each of which dwelling units has an independent entrance from the outside and is vertically separated from any abutting dwelling unit;

“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 not other parts attached or another dwelling units where the residential units are not connected by an interior corridor;

“service” means a service designed in Schedule “A” to this By-law, and “services” shall have a corresponding meaning;

“servicing agreement” means an agreement between a landowner and the Town relative to the provision of municipal services to specified land within the jurisdiction of the Town;

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

“Town” means the area within the geographic limits of the Town of St. Marys; and

“Zoning By-Law” means the Zoning By-Law of the Town of St. Marys, or any successor thereof passed pursuant to Section 34 of the Planning Act, S.O. 1998.

2. DESIGNATION OF SERVICES

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

- a) Water Services;
- b) Wastewater Services;
- c) Waste Diversion;
- d) Roads and Related;
- e) Fire protection Services;
- f) Policing Services;
- g) Childcare;
- h) Library;
- i) Indoor & Outdoor Recreation; and
- j) Administration (Studies);

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

3. 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 section 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 section 3.3, this By-law applies to all lands in the Town of St. Marys whether or not the land or use thereof is exempt from Development Charges under section 3 of this by-law or from taxation under the Assessment Act, R.S.O. 1990, c.A.31, as amended.
- 3.3. Notwithstanding clause 3.2 above, this by-law shall not apply to lands that are owned by and used for the purposes of:
- (a) a municipality or a local board thereof;
 - (b) a board of education as defined by the Education Act;
 - (c) the Corporation of the County of Perth or a local board thereof;
 - (d) the Crown in right of Ontario or the Crown in right of Canada;
 - (e) a dwelling unit used exclusively for the purposes of non-profit assisted rental housing which is 100% funded by the County of Perth or the Crown in the right of Ontario or Canada;
- 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, R.S.O. 1990, Chap. C.26, as amended, or any successor thereof; or
 - (vii) the issuing of a permit under the Building Code Act 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) an enlargement to an existing dwelling unit;
- (b) one or two additional dwelling units in an existing single detached dwelling; or
- (c) one additional dwelling unit in any other existing residential building;

3.6 Notwithstanding section 3.5(b), development charges shall be imposed if the total gross floor area of the additional one or two units exceeds the gross floor area of the existing dwelling unit.

3.7 Notwithstanding section 3.5, development charges shall be imposed if the additional unit has a gross floor area greater than

- i. in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and
- ii. in the case of any other residential building, the gross floor area of the smallest dwelling unit contained in the residential building.

3.8 Exemption for Industrial Development:

3.8.1 Notwithstanding any other provision of this by-law, there shall be an exemption from the payment of development charges for one or more enlargements of an existing industrial building on its site, whether attached or separate from the existing industrial building, up to a maximum of fifty per cent of the gross floor area before the first enlargement for which an exemption from the payment of development charges was granted pursuant to the Development Charges Act or this section. Development charges shall be imposed in accordance with this by-law with respect to the amount of the floor area of an enlargement that results in the gross floor area of the industrial building being increased by greater than fifty per cent of the gross floor area of the existing industrial building.

3.8.2 If the gross floor area of an existing industrial building is enlarged by greater than 50 percent, the amount of the development charge payable in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:

- 1) determine the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement;
- 2) divide the amount determined under subsection 1) by the amount of the enlargement

3.9 For the purpose of section 3.8 herein, “existing industrial building” is used as defined in section 1 herein.

3.10 Other Exemptions:

Notwithstanding the provision of this by-law, development charges shall not be imposed with respect to:

- a) lands, buildings or structures used or to be used for a place of worship or for the purposes of a cemetery or burial ground exempt from taxation under the Assessment Act;
- b) non-residential farm buildings constructed for bona fide farm uses;

- c) an accessory building;
- d) a Home Occupation;
- e) a temporary use permitted under municipal zoning by-law enacted in accordance with section 39 of the Planning Act; or
- f) a temporary building without foundation defined in the Building Code for a period not exceeding six consecutive months and not more than six months in any one calendar year on a site for which development charges have been previously paid;

Amount of Charges

Residential

3.11.1 The development charges set out in Schedules B 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 residential unit, and calculated with respect to each of the services according to the type of residential use.

3.11.2 Notwithstanding section 3.11.1 of this by-law that the following percentage of each service of the residential charges provided in Schedule 'B' be imposed:

Service	RESIDENTIAL			
	Single and Semi-Detached Dwelling	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Other Multiples
Town-wide Services:				
Services Related to a Highway	100%	100%	100%	100%
Fire Protection Services	100%	100%	100%	100%
Police Services	100%	100%	100%	100%
Indoor & Outdoor Recreation Services	100%	100%	100%	100%
Library Services	100%	100%	100%	100%
Administration	100%	100%	100%	100%
Child Care	100%	100%	100%	100%
Waste Diversion	100%	100%	100%	100%
Wastewater Services	100%	100%	100%	100%
Water Services	100%	100%	100%	100%

Non-Residential

3.12.1 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 total floor area of the non-residential use.

3.12.2 Notwithstanding subsection 3.12.1 of this by-law that the following percentage of each service of the non-residential charges provided in Schedule 'B' be imposed by type of non-residential development:

Service	NON-RESIDENTIAL (per ft2 of Gross Floor Area)	
	Commercial & Institutional	Industrial
Services Related to a Highway	0%	0%
Fire Protection Services	0%	0%
Police Services	0%	0%
Indoor & Outdoor Recreation Services	0%	0%
Library Services	0%	0%
Administration	0%	0%
Wastewater Services	100%	0%
Water Services	0%	0%

Reduction of Development Charges for Redevelopment

3.13 Despite any other provisions 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 subsection 3.11 by the number, according to type, of dwelling units that have been or will be demolished or converted to another principal use; and
- (b) in the case of a non-residential building or structure or, in the case of mixed-use building or structure, the non-residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charges under subsection 3.12, by the gross floor area that has been or will be demolished or converted to another principal use;

provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.

Time of Payment of Development Charges

- 3.14 Development charges imposed under this By-law are calculated, payable, and collected upon issuance of the first building permit for the development.
- 3.15 Despite section 3.14 and in accordance with section 27 of the Act, Council from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable.

4. PAYMENT BY SERVICES

- 4.1 Despite the payment required under subsections 3.11 and 3.12, Council may, by agreement, give a credit towards a development charge in exchange for work that relates to a service to which a development charge relates under this By-law.

5. INDEXING

- 5.1 Development charges imposed pursuant to this By-law shall be adjusted annually, without amendment to this By-law, commencing on the 1st of January, 2018 and each year thereafter, in accordance with the prescribed index in the Act.

6. SCHEDULES

- 6.1 The following schedules shall form part of this By-law:

Schedule A - Components of Services Designated in section 2.1

Schedule B - Residential and Non-Residential Development Charges

7. CONFLICTS

- 7.1 Where the Town of St. Marys and an owner or former owner have entered into an agreement with respect to land within the area to which this By-law applies, and a conflict exists between the provisions of this By-law and such agreement, the provisions of the agreement shall prevail to the extent that there is a conflict.
- 7.2 Notwithstanding section 7.1, where a development which is the subject of an agreement to which section 7.1 applies, is subsequently the subject of one or more of the actions described in subsection 3.4(a), an additional development charge in respect of the development permitted by the action shall be calculated, payable and collected in accordance with the provisions of this By-law if the development has the effect of increasing the need for services, unless such agreement provides otherwise.

8. SEVERABILITY

- 8.1 If, for any reason, any provision of this By-law is held to be invalid by a court of competent jurisdiction, it is hereby declared to be the intention of Council that such provision be severable and the remainder of this By-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

9. DATE BY-LAW IN FORCE

- 9.1 This By-law shall come into effect at 12:01 AM on January 1, 2018 and will be index as per section 5.1.

10. DATE BY-LAW EXPIRES

- 10.1 This By-law will expire at 12:01 AM on January 1, 2023 unless it is repealed by Council at an earlier date.

11. EXISTING BY-LAW REPEALED

- 11.1 All previous by-laws enacted are hereby repealed as of the date and time of this By-law coming into force.

Read a first and second time this 28th day of November, 2017.

Read a third and final time and passed this 28th day of November, 2017.

Mayor Al Stratthdee

Brent Kittmer, CAO / Clerk

SCHEDULE “A” TO BY-LAW 99-2017

COMPONENTS OF SERVICES DESIGNATED IN SUBSECTION 2.1

100% Eligible Services

Water Services

Treatment, Storage, and Distribution

Wastewater Services

Treatment, Facilities-related, and Sewers

Services Related to a Highway

Roads, Sidewalks, Traffic Signals and Streetlights

Public Works Facilities and Vehicles

Fire Protection Services

Fire Facilities and Vehicles

Police Services

Police Facilities

90% Eligible Services

Administration

Growth Related Studies

Library

Facilities

Collection Materials

Indoor and Outdoor Recreation

Parkland Development, Amenities, and Trails

Child Care

Facilities

Waste Diversion

Contract

SCHEDULE "B"
BY-LAW NUMBER 99-2017
SCHEDULE OF DEVELOPMENT CHARGES

Service	RESIDENTIAL				NON-RESIDENTIAL
	Single & Semi-Detached Dwelling	Apartments – 2 Bedrooms +	Apartments – Bachelor & 1 Bedroom	Other Multiples	(per ft2 of Gross Floor Area)
Municipal Wide Services:	1,386	825	571	947	2.26
Services Related to a Highway	371	221	153	253	.35
Fire Protection Services	77	46	32	53	.07
Police Services	-	-	-	-	.05
Indoor & Outdoor Recreation Services	972	578	400	664	.11
Library Services	197	117	81	135	.32
Administration	81	48	33	55	-
Childcare	7	4	3	5	-
Waste Diversion	4,105	2,443	1,691	2,804	3.08
Wastewater Services	1,034	615	426	706	.97
Total Urban Services	8,230	4,897	3,390	5,622	7.21

*On January 1, 2018 the above rates will be adjusted by the prescribed indexed which is 2.8%

*Refer to sections 3.11.2 and 3.12.2 to determine the percentage of the above rates that apply