

THE CORPORATION OF THE TOWN OF MIDLAND
BY-LAW 2014-79

A By-law for the imposition of Development Charges and to repeal By-law 2014-32

WHEREAS Subsection 2(1) of the *Development Charges Act, 1997*, provides that the Council of a Municipality may pass by-laws to impose development charges against land to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies;

AND WHEREAS the report entitled “Development Charges Background Study – Town of Midland” dated March 28, 2014 has been completed in accordance with the *Development Charges Act, 1997*;

AND WHEREAS the Council of The Corporation of the Town of Midland has given notice and held a Public Meeting on the fourteenth day of April, 2014, in accordance with the *Development Charges Act, 1997* and the regulations thereto and copies of the study and the proposed By-law were made available to the public on March 28, 2014;

AND WHEREAS the Council of The Corporation of the Town of Midland has given communications received by the Town due consideration, has made any necessary revisions to the Town of Midland Development Charges Background Study as a result of those communications, and has determined that no further public meetings are required in respect of the Background Study and the Development Charges By-Law; and

AND WHEREAS the Council of The Corporation of the Town of Midland on May 13, 2014 approved the Development Charge Background Study dated March 28, 2014, in which certain recommendations were made relating to the establishment of a development charge policy for the Town of Midland pursuant to the *Development Charges Act, 1997* and approved certain options identified by Staff Report TR-2014-19 on May 13, 2014;

AND WHEREAS the Council of the Corporation of the Town of Midland on May 13, 2014, adopted by resolution the current residential and non-residential development charges to be maintained until March 27, 2015 on the understanding that a further by-law will need to be considered prior to March 27, 2015;

AND WHEREAS the Council of the Corporation of the Town of Midland on October 20, 2014, adopted by resolution the recommendations of its Ad-Hoc Development Charges Study Working Committee to freeze development charge rates for a period of five (5) years at the 2014 rates and the By-law and rates be the subject to an annual review by Council;

AND WHEREAS the Council of The Corporation of the Town of Midland has given notice and held a Public Meeting on the twenty-fourth day of November, 2014, in accordance with the *Development Charges Act, 1997* and the regulations thereto and copies of the study and the proposed By-law were made available to the public on

October 24, 2014;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF MIDLAND HEREIN ENACTS AS FOLLOWS:

DEFINITIONS

1. That in this By-law,
 - (a) “**Act**” means the *Development Charges Act, 1997*, and all regulations made thereto, as amended or any successor thereof;
 - (b) “**apartment building**” means a building except otherwise defined herein containing more than three dwelling units;
 - (c) “**commercial use**” means all non-residential uses other than industrial use;
 - (d) “**Corporation**” means The Corporation of the Town of Midland;
 - (e) “**Council**” means the Council of the Town of Midland;
 - (f) “**County**” means The County of Simcoe;
 - (g) “**detached dwelling unit**” means a dwelling unit in a building containing one dwelling unit;
 - (h) “**development**” includes redevelopment;
 - (i) “**development charge(s)**” means the charges imposed pursuant to this By-law and in accordance with the **Act**;
 - (j) “**development charges background study**” means the Development Charges Background Study prepared by Hemson Consulting Ltd.;
 - (k) “**duplex dwelling**” means a building divided horizontally into two (2) dwelling units;
 - (l) “**dwelling unit**” means one or more habitable rooms that may be used as a permanent residence, having cooking and sanitary facilities. This definition shall not include a motor home or a travel trailer;
 - (m) “**high density dwelling unit**” means a dwelling unit in an apartment building;
 - (n) “**industrial use**” means the use of land, building or structures for the

manufacturing, processing, fabricating or assembly of raw materials or goods, warehousing or bulk storage of goods and related accessory uses;

- (o) **“local board”** means a local board as defined in the **Act**;
- (p) **“low density dwelling unit”** means a detached dwelling unit, and a dwelling unit in a building which contains only one dwelling unit;
- (q) **“medium density dwelling unit”** means a dwelling unit in a duplex building, semi-detached building, street townhouse development, townhouse and a triplex building;
- (r) **“mixed-use”** means land, buildings or structures used or designed or intended for use for a combination of non-residential uses and residential uses;
- (s) **“non-profit housing”** housing which is or is intended to be offered primarily to persons or families of low income and which is owned or operated by:
 - i. 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
 - ii. a non-profit housing co-operative having the same meaning as in the Cooperative Corporations Act, R.S.O. 1990, c. C.35, as may be amended from time to time;
- (t) **“non-residential total floor area”** means the sum total of the total areas of all floors in a building or structure, whether at, above, or below-grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating two uses, or from the outside edge of a floor does not meet an exterior or common wall, and:
 - i. includes the floor area of a mezzanine and air-supported structure and the space occupied by interior wall partitions;
 - ii. excludes any parts of the building or structure used for the parking and loading of vehicles; and
 - iii. where a building does not have any walls, the gross floor area shall be the sum total of the area of land directly beneath the roof of the building and the total area of all floors in the building or structure.
- (u) **“non-residential use”** means lands, buildings or structures or portions thereof used or designed or intended for use for other than residential;
- (v) **“owner”** means the owner of land or a person who has made application for approval for the development of land upon which a development

charge is imposed;

- (w) **“residential gross floor area”** means the total area of all floors above grade 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 portion of a building;
- (x) **“residential use”** means lands, buildings or structures used, or designed or intended for use as a residence for one or more individuals, and shall include, but is not limited to, detached dwelling unit, semi-detached building, a duplex building, street townhouse development, townhouse, a triplex building, an apartment building, and the residential portion of a mixed-use building or structure;
- (y) **“semi-detached building”** means a building divided vertically into two (2) dwelling units by a common wall extending from the base of the foundation to the roof line;
- (z) **“services”** means services described in the development charges background study and designated in Section 2 of this By-law;
- (aa) **“total floor area”** means the sum total of the total areas of the floors in a building or structure, whether at, above, or below-grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating two uses, or from the outside edge of a floor where the outside edge of the floor does not meet an exterior or common wall, and:
- (bb) **“street townhouse development”** means a row of dwelling units which may or may not share common walls but which are attached through a common foundation. Each dwelling unit has a separate entrance at grade;
- (cc) **“Town”** means The Corporation of the Town of Midland;
- (dd) **“townhouse”** means a dwelling unit in a building containing not less than three and not more than eight dwelling units, where each unit is separated vertically or horizontally, from any other unit in the building, and where each unit has a separate entrance from the outside.
- (ee) **“triplex building”** means a building divided into three (3) dwelling units, each of which has a separate entrance into a common vestibule.

DESIGNATION OF SERVICES

2. The categories of services for which development charges are imposed under this By-law are identified in Schedule “A”, Categories of Services.

AREA TO WHICH BY-LAW APPLIES

3. (1) Subject to Subsection 3(2) and 3(3), this By-law applies to all land in the Town.
- (2) The development charges identified for the provision of:
 - (a) municipal sanitary sewerage services, as identified on Schedules “B” and “C”, will not be levied against development of land that will not receive sanitary sewerage services from the Town of Midland, or a local board thereof, at the time of development; and
 - (b) municipal water services, as identified on Schedules “B” and “C”, will not be levied against development of land that will not receive water services from the Town of Midland, or a local board thereof, at the time of development.
- (3) The development charges identified on Schedule “D” also apply to the lands designated in the map outlined on Schedule “E”.

APPROVALS FOR DEVELOPMENT

4. Development charges shall be imposed on all lands, buildings or structures that are developed for residential uses or non-residential uses if 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 Section 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*; or
 - (g) the issuing of a permit under the *Building Code Act, 1992*, in relation to a building or structure.

DEVELOPMENT CHARGES AMOUNTS

5. (1) The Development Charges with respect to the use of any land, buildings

or structures shall be calculated as follows:

- (a) in the case of residential development, or the residential portion of a mixed-use development, based upon the number and type of dwelling units; or
- (b) in the case of non-residential development, or the non-residential portion of a mixed-use development, based upon the total floor area of such development.

(2) **Residential Use**

Subject to the provisions of this By-law, the development charges described in Schedule "B" and Schedule "D", shall be imposed upon residential uses of lands, buildings or structures, including a residential dwelling unit accessory to a non-residential use, in the case of a mixed-use building or structure, upon the residential uses of the mixed-use building or structure upon all lands within the Town.

(3) **Non-Residential Use**

Subject to the provisions of this By-law, the development charges described in Schedule "C" shall be imposed upon non-residential uses of lands, buildings or structures and, in the case of a mixed-use building or structure, upon the non-residential uses of the mixed-use building or structure upon all lands within the Town.

TIMING OF THE CALCULATION AND PAYMENT

- 6. (1) The development charges shall be calculated as of and shall be payable on the date a building permit is issued in relation to a building or structure on land to which the development charge applies.
- (2) Notwithstanding Subsection (1), 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, in accordance with Section 27 of the *Act*.
- (3) In the alternative to payment by the means provided in subsections (1) and (2), the Town may, by an agreement entered into with the Owner, accept the provision of services in full or partial satisfaction of the Development Charge otherwise payable provided that:
 - (a) If the Town and the Owner cannot agree as to the reasonable cost of doing the work under sub-section (3), the dispute shall be referred to Council whose decision shall be final and binding.

- (b) If the credit exceeds the amount of the charge for the service to which the work relates:
 - (i) the excess amount shall not be credited against the charge for any other service, unless the Town has so agreed in an agreement under Section 38 of the Act; and
 - (ii) in no event shall the Town be required to make a cash payment to the credit holder.

- (4) Nothing in this By-law prevents Council from requiring, as a condition of any approval given under the Planning Act that the Owner, at the Owner's expense, install such local services as Council may require in accordance with the Town's local service policies in effect at the time.

EXEMPTIONS

- 7. Notwithstanding Section 6 of this By-law, development charges shall not be imposed with respect to:
 - (a) all residential use building permits not resulting in the creation of an additional unit;
 - (b) the creation of one or two additional dwelling units in an existing single-detached dwelling provided that the total gross floor area of the additional one or two dwelling units does not exceed the gross floor area of the existing single-detached dwelling unit;
 - (c) the creation of one additional dwelling unit in a residential use building, other than a single-detached dwelling, provided that the additional dwelling unit does not have a residential gross floor area greater than:
 - (i) in the case of a semi-detached dwelling or row dwelling, the residential gross floor area of the existing dwelling unit; or
 - (ii) in the case of any other residential use building, the residential gross floor area of the smallest dwelling unit contained in the residential use building;
 - (d) buildings or structures owned and used for the purpose of a municipality or school board, as defined in Subsection 1(1) of the *Education Act*;
 - (e) every church yard, cemetery or burying ground exempt under the *Assessment Act* for taxation purposes;
 - (f) buildings or structures used as hospitals governed by the *Public Hospitals*

Act, R.S.O. 1990, c.P.40;

- (g) buildings or structures owned by and used for the purposes of the Town, the County or their local boards;
- (h) buildings or structures owned by and used for the purposes of a college of applied arts and technology established pursuant to the *Ministry of Colleges and University Act*, R.S.O. 1990, c M.19;
- (i) buildings or structures owned by and used for the purposes of a university established by an *Act* of the Legislative Assembly of Ontario;
- (j) non-residential use building permits not resulting in the creation of additional gross floor area; or
- (k) buildings for “industrial uses” as defined herein;
- (l) lands zoned “Downtown Core” Commercial “CD-F2” under the Town of Midland Zoning By-law, as amended from time to time.
- (m) a residential use building erected and owned by non-profit housing, provided that satisfactory evidence is provided to the Treasurer that the residential use building is intended for persons of low or modest incomes and that the dwelling units are being made available at values that are initially and will continue to be below current market levels in the Town.

REDEVELOPMENT

8. Notwithstanding any other provision of this By-law, where, as a result of the redevelopment of land, a building or structure existing on the land within 24 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, in order to facilitate the redevelopment, the development charges otherwise payable 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 charges under Section 6 of this By-law by the number, according to type of dwelling units that have been or will be demolished; and
 - (b) in the case of a non-residential building or structure or, in the case of a 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 Section 6 of this By-law by the non-residential total floor area that has been or will be demolished,

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

TRANSITION PROVISIONS

9. Where the Town and an owner or former owner have entered into an agreement with respect to land within the area to which this By-law applies, pertaining to the payment of development charges, or similar fees for the services and costs being levied for under this By-law, the owner will:
 - (a) pay development charges under this By-law equal to the difference of the amounts calculated under Section 5 less amounts already paid to the Town for the land, subject to the terms, conditions and provisions of the by-laws, policies and agreements in existence at the date the agreement was introduced; or
 - (b) notwithstanding Subsection 9(a), if the previous payment was the result of a Committee of Adjustment Decision, no additional development charges will apply, subject to the terms, conditions and provisions of this By-law and any other policies and agreements related to the subject lands.

COLLECTION OF UNPAID DEVELOPMENT CHARGES

10. (1) If a development charge, or any part thereof, imposed by the Town remains unpaid after the due date, the amount unpaid shall be added to the tax roll of the Town for the subject property and shall be collected as taxes.
- (2) If any unpaid development charge is collected as taxes in accordance with Section 10(1), the monies so collected shall be credited to the appropriate development charge reserve fund.

ANNUAL REPORT AND INDEXING

11. (1) That an annual report be shall prepared and submitted to Council in March of each year addressing, but not limited to, the previous year's growth and development, projected growth rates, development charge revenue and revenue loss based on the 2014 Development Charge Background Study, the impact of the freezing of rates, the advisability of indexing the rates, and the advisability of undertaking a Development Charges review prior to the mandatory five (5) year review.
- (2) Development charges imposed pursuant to this By-law may be adjusted annually without amendment to this By-law, commencing March 30, 2015,

and on first Monday following the Council meeting of each year thereafter, in accordance with the decision by Council and to a maximum of the most recently available Statistics Canada Quarterly, Construction Price Statistics.

SCHEDULES

12. The following schedules to this By-law form an integral part thereof:

- | | |
|----------------|--|
| Schedule "A" - | Categories of Services |
| Schedule "B" - | Residential Development Charges |
| Schedule "C" - | Non-Residential Development Charges |
| Schedule "D" - | Area Specific Residential Development Charges |
| Schedule "E" - | Map of Area to which Area Specific Development Charges apply |

DATE BY-LAW IN FORCE

13. (1) This By-law shall come into force and take effect on the date of passage.
- (2) By-law 2014-32 is hereby repealed on the date this By-law comes into force.

DATE BY-LAW EXPIRES

14. This By-law expires November 24, 2019.

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 portion and all other provisions of this By-law shall remain in full force and effect.

SHORT TITLE

16. This By-law may be cited as the Town of Midland Development Charges By-law.

By-law read a first, second and third time, and finally passed at a meeting of the Municipal Council of The Corporation of the Town of Midland on this Twenty-fourth day of November, 2014.

Mayor

Clerk

SCHEDULE "A"
TO BY-LAW 2014-79

CATEGORIES OF SERVICES
DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

1. General Government
2. Library Board
3. Fire Department
4. Police Department
5. Indoor Recreation
6. Park Development & Facilities
7. Public Works and Fleet
8. Municipal Parking
9. Transit Services
10. Roads and Related
11. Sanitary Sewerage
12. Water Services

DESIGNATED MUNICIPAL SERVICES RESPECTING AREA SPECIFIC
CHARGES UNDER THIS BY-LAW

1. Roads and Related

SCHEDULE "B"
TO BY-LAW 2014-79

RESIDENTIAL DEVELOPMENT CHARGES

Service	Residential Charge By Unit Type		
	Low Density	Medium Density	High Density
General Government	\$395	\$293	\$269
Library	\$1,926	\$1,425	\$1,310
Fire	\$158	\$117	\$107
Police	\$106	\$79	\$72
Indoor Recreation	\$4,674	\$3,458	\$3,178
Parks	\$1,628	\$1,205	\$1,108
Public Works	\$958	\$709	\$651
Parking	\$0	\$0	\$0
Transit Services	\$86	\$64	\$58
Roads And Related	\$2,391	\$1,7704	\$1,626
Subtotal Town-Wide Services	\$12,322	\$9,118	\$8,379
Sanitary Sewerage	\$1,746	\$1,291	\$1,187
Water Services	\$2,046	\$1,514	\$1,391
Subtotal Water & Sewer Services	\$3,792	\$2,805	\$2,578
TOTAL CHARGE PER UNIT	\$16,113	\$11,924	\$10,957

SCHEDULE "C"
TO BY-LAW 2014-79

NON-RESIDENTIAL DEVELOPMENT CHARGES

Service	Non-Residential Charge per Square Metre of TFA
General Government	\$1.65
Library	\$0.00
Fire	\$0.66
Police	\$0.45
Indoor Recreation	\$0.00
Parks	\$0.00
Public Works	\$3.99
Parking	\$0.00
Transit Services	\$0.36
Roads And Related	\$10.19
Subtotal Town-Wide Services	\$17.30
Sanitary Sewerage	\$7.44
Water Services	\$8.72
Subtotal Water & Sewer Services	\$16.15
TOTAL CHARGE PER SQUARE METRE	\$33.45

SCHEDULE "D"
TO BY-LAW 2014-79

AREA SPECIFIC RESIDENTIAL DEVELOPMENT CHARGES

Unit Type	\$ / Unit
Low Density	\$751
Medium Density	\$556
High Density	\$511

NOTE: Charges applicable to the area delineated on Schedule "E".

**SCHEDULE "E"
TO BY-LAW 2014-79**

MAP OF AREA TO WHICH AREA SPECIFIC DEVELOPMENT CHARGES APPLY

