

THE CORPORATION OF THE TOWN OF PLYMPTON-WYOMING

BY-LAW NUMBER 77 of 2011

A BY-LAW WITH RESPECT TO DEVELOPMENT CHARGES

WHEREAS the Town of Plympton-Wyoming will experience growth through development and re-development;

AND 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 Town of Plympton-Wyoming (“the Town”) 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 Town 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 26, 2011;

AND WHEREAS the Council of the Town had before it a report entitled *Development Charge Background Study* dated September 12, 2011 prepared by Henson Consulting Ltd, wherein it is indicated that the development of any land within the Town will increase the need for services as defined herein;

AND WHEREAS the Town Council on September 26, 2011 approved the applicable *Development Charge Background Study*, dated September 26, 2011, in which certain recommendations were made relating to the establishment of a development charge policy for the Town pursuant to the *Development Charges Act, 1997*;

AND WHEREAS the Council Town on September 26, 2011 determined that no additional public meeting was required;

AND WHEREAS the Council of the Town on September 26, 2011 determined that the increase in the need for services attributable to the anticipated development as contemplated in the *Development Charges Background Study*, dated September 12, 2011, including any capital costs, will be met by updating the capital budget and forecast for the Town, where appropriate;

AND WHEREAS the Council of the Town on September 26, 2011 determined that the future excess capacity identified in the *Development Charges Background Study*, dated September 12, 2011, shall be paid for by the development charges contemplated in the said *Development Charges Background Study*, or other similar charges.

**THE CORPORATION OF THE TOWN OF PLYMPTON-WYOMING
BY THE COUNCIL, THEREFORE ENACTS AS FOLLOWS:**

DEFINITIONS

1. In this By-law,
 - (1) "Act" means the *Development Charges Act*, S.O. 1997, c. 27;
 - (2) "Accessory dwelling unit" means a dwelling which is part of and accessory to a permitted non-residential building;
 - (3) "Apartment unit" 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) "Board of Education" means a board defined in s.s. 1(1) of the *Education Act*;
 - (5) "Building Code Act" means the *Building Code Act*, R.S.O. 1992, c.23, as amended;
 - (6) "Bona fide farm operations" means bona fide farm operations only and does not include other residential and non-residential uses accessory to farm operations;
 - (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;
 - (d) to acquire, lease, construct or improve facilities including,
 - (i) rolling stock with an estimated useful life of seven years or more,
 - (ii) furniture and equipment, other than computer equipment, and
 - (iii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, R.S.O. 1990, c.P.-44; and
 - (e) to undertake studies in connection with any of the matters referred to in clauses (a) to (d);

- (f) to complete the development charge background study under Section 10 of the Act;
- (g) interest on money borrowed to pay for costs in (a) to (d);
- required for provision of services designated in this By-law within or outside the municipality;
- (8) "Council" means the Council of The Corporation of the Town of Plympton-Wyoming;
- (9) "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;
- (10) "Development charge" means a charge imposed pursuant to this By-law;
- (11) "Dwelling" shall mean a building or part thereof used or intended, adapted or designed to be used, occupied or capable of being occupied exclusively as a home, residence or sleeping place for one or more persons having a right to exclusive use thereof, but shall not include any travel trailer, hotel, motel, private garage, a home for the aged, nursing home, hospital, or living quarters for a caretaker, watchman, or other person or persons using such living quarters which are Accessory to a non-residential use;
- (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) "Finished grade" means the median elevation between the highest and lowest point of the finished surface of the ground measured around the perimeter of the base of a building or structure exclusive of any embankment in lieu of steps;
- (14) "Gross floor area" means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls;
- (15) "Local board" means a public utility commission, public library board, local board of health, or any other board, commission, committee or body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of the municipality or any part or parts thereof;
- (16) "Local services" means those services or facilities which are under the jurisdiction of the municipality and are related to a plan of subdivision or within the area to which the plan relates, required as a condition of approval under s.51 of the *Planning Act*, or as a condition of approval under s.53 of the *Planning Act*;

- (17) "Multiple dwelling" means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;
- (18) "Municipality" means The Corporation of the Town of Plympton-Wyoming;
- (19) "Non-residential uses" means a building or structure used for other than a residential use or wind turbine use;
- (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;
- (21) "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, c. A.31, as amended, or any successor thereof;
- (22) "Planning Act" means the *Planning Act*, R.S.O. 1990, c.P. 13, as amended;
- (23) "Regulation" means any regulation made pursuant to the Act;
- (24) "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;
- (25) "Semi-detached dwelling" means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;
- (26) "Single detached dwelling unit" means a residential building consisting of one dwelling unit and not attached to another structure and includes a mobile home;
- (27) "Services" means services set out in Schedule "A" to this By-law, as applicable;
- (28) "Wind turbine" means any wind energy conversion system with a name plate capacity greater than 300 kilowatts, that converts wind energy into electricity for sale to an electrical utility or other intermediary.

CALCULATION 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) The development charge with respect to the residential building or the residential portion of a mixed-use building or structure in the municipality 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".

- (3) The development charge with respect to the non-residential building or the non-residential portion of a mixed-use building or structure in the municipality shall be calculated as the sum of the product of the gross floor area of each building multiplied by the corresponding total charge per square metre of gross floor area, as set out in Schedule "B".

- (4) The development charge with respect to a wind turbine in the municipality shall be calculated in accordance with the rates set out in Schedule "B".

PHASE-IN OF DEVELOPMENT CHARGES

3. The development charges imposed pursuant to this By-law are being phased-in in accordance with the rates set out in Schedule "B".

APPLICABLE LANDS

4. (1) Subject to Sections 5 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 the development of non-residential uses intended for:
- (a) bona fide farm operations;
 - (b) places of worship.

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" as applicable, 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" as applicable, 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.

RULES WITH RESPECT TO AN "INDUSTRIAL" EXPANSION EXEMPTION

6. (1) This By-law does not apply to the enlargement of the gross floor area of an existing industrial building, if the gross floor area is enlarged by 50 percent or less.
- (a) For the purpose of applying this exemption, the term "existing industrial building" shall have the same meaning as "existing industrial building" defined in O.Reg. 82/98 made under the Act;
 - (b) In particular, for the purposes of applying this exemption, the industrial building is considered existing if it is built, occupied and assessed for property taxation at the time of passage of this By-law;
 - (c) The exemption applies where there is a bona fide increase in the size of the existing industrial building and the enlarged area is attached to the existing industrial building, and is used for or in connection with an industrial purpose as set out in subsection 1(1) of O. Reg. 82/98 made under the Act. Without limiting the generality of the foregoing, this exemption shall not apply where the enlargement is attached to the existing industrial building by means only of a tunnel, bridge, canopy, corridor or other passageway, or through a shared below-grade connection such as a service tunnel, foundation, footing or a parking facility;

- (2) Notwithstanding subsection 6(1), 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.

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*;
 - (b) the approval of a minor variance under Section 45 of the *Planning Act*;

- (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - (d) the approval of a plan of subdivision under Section 51 of the *Planning Act*;
 - (e) a consent under Section 53 of the *Planning Act*;
 - (f) the approval of a description under Section 50 of the *Condominium Act*, R.S.O. 1990, c.C.-26; or
 - (g) the issuing of a permit under the *Building Code Act*, in relation to a building or structure.
- (2) Subsection (1) shall not apply in respect to
- (a) local services installed or paid for by the owner within a plan of subdivision or within the area to which the plan relates, as a condition of approval under Section 51 of the *Planning Act*;
 - (b) local services installed or paid for by the owner as a condition of approval under Section 53 of the *Planning Act*.

LOCAL SERVICE INSTALLATION

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.
- (2) Notwithstanding subsection (1), if two or more of the actions described in subsection 7(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" or Schedule "B", as applicable, an additional 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 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 (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. In the case of the demolition of all or part of a building or structure:
 - (1) a credit shall be allowed, provided that the land had located thereon structures legally occupied in a fashion consistent with its designed and intended use at some point within the five years prior to the issuance of the building permit, and the building permit has been issued for the development or redevelopment within three (3) years from the date the demolition permit has been issued;
 - (2) if a development or redevelopment involves the demolition of and replacement of a building or structure, a credit shall be allowed equivalent to the number of dwelling units demolished multiplied by the applicable residential development charge in place at the time the development charge is payable; and
 - (3) if a development or redevelopment involves the demolition of and replacement of a non-residential structure to which a development charge would apply if built new, a credit shall be allowed equivalent to the gross floor area demolished multiplied by the applicable non-residential development charge in place at the time the development charge is payable.
12. If a building or structure is physically moved, a redevelopment credit may apply on the original property subject to the provisions described in Section 11. Development charges described in Schedule "B" would be payable on the new property containing the building or structure.
13. A credit can, in no case, exceed the amount of the development charge that would otherwise be payable, and no credit is available if the existing land use is exempt under this By-law.

TIMING OF CALCULATION AND PAYMENT

14. (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.
- (3) Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.
- (4) Where any unpaid development charges are collected as taxes under subsection (3), the monies so collected shall be credited to the development charge reserve funds referred to in Section 15.

RESERVE FUNDS

15. (1) Monies received from payment of development charges under this By-law shall be maintained in separate reserve funds as per the services set out in Schedule "A".
- (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 of the Municipality to divide the reserve funds created hereunto 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) The Treasurer of the Municipality shall, in each year commencing in 2012 for the 2011 year, furnish to Council a statement in respect of the reserve funds established hereunder for the prior year, containing the information set out in Section 12 of O.Reg. 82/98.

BY-LAW AMENDMENT OR APPEAL

16. (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.

FRONT ENDING AGREEMENTS

17. Council may, from time to time and at any time, enter into a Front Ending Agreement as authorized by Section 44 of the Act.
- (1) "benefiting area" means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service.

AGREEMENTS REGARDING PAYMENT OF DEVELOPMENT CHARGES

18. (1) Nothing in this By-law prevents Council from entering into an agreement with an Owner providing for the payment of a Development Charge before the date otherwise required for payment hereunder.
- (2) Where an Owner has entered into an agreement under this Section, the Owner shall only be required to pay the Development Charge in effect on the date it is payable under the agreement.

COMPLAINTS ABOUT DEVELOPMENT CHARGES

19. (1) An owner may complain in writing to the Council in respect of the development charge imposed by the municipality that,
- (a) the amount of the development charge was incorrectly determined;
- (b) whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined;
- (c) there was an error in the application of this By-law.

When complaint to be made

- (2) A complaint may not be made under Section 26 later than ninety (90) days after the day the development charge, or any part of it, is payable.

Particulars of Complaint

- (3) The complaint must be in writing, must state the complainant's name, the address where notices can be given to the complainant and the reasons for the complaint.

Hearing

- (4) The Council shall hold a hearing into the complaint and shall give the complainant an opportunity to make representations at the hearing.

Notice of Hearing

- (5) The Clerk of the municipality shall mail a notice of the hearing to the complainant at least fourteen (14) days before the hearing.

Determination by Council

- (6) After hearing the evidence and submissions of the complainant, the Council shall as soon as practicable make a recommendation on the merits of the complaint and Council may,
- (a) dismiss the complaint; or
 - (b) rectify any incorrect determination or error that was the subject of the complaint.

Notice of Decision

- (7) The Clerk of the municipality shall mail to the complainant a notice of the Council's decision, and of the last day for appealing the decision, which shall be the day that is forty (40) days after the day the decision is made. The notice required under this Section must be mailed not later than twenty (20) days after the day the council's decision is made.

GRANTS-IN-LIEU OF DEVELOPMENT CHARGES

20. Council may by motion consider a grant-in-lieu out of general municipal funds of all or a portion of the development charges where they are onerous given the nature of the development proposed or as an economic development incentive.

BY-LAW INDEXING

21. The development charges set out in Schedule "B" of this By-law may be adjusted annually as of 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, catalogue 62-007".

SEVERABILITY

22. In the event any provision, or part thereof, of this By-law is found by a court of competent jurisdiction to be ultra vires, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all other provisions of this By-law shall remain in full force and effect.

HEADINGS FOR REFERENCE ONLY

23. 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 REGISTRATION

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

BY-LAW ADMINISTRATION

25. This By-law shall be administered by the Municipal Council.

SCHEDULES TO THE BY-LAW

26. The following Schedules form an integral part of this By-law:

Schedule "A" - Schedule of Municipal Services

Schedule "B" - Schedule of Development Charges

DATE BY-LAW EFFECTIVE

27. This By-law shall come into force and effect on the day following the day of its approval by Council.

28. The previous development charges by-law "By-law Number 95 of 2006" is hereby repealed.



SHORT TITLE

29. This By-law may be cited as the "Plympton-Wyoming Development Charge By-law."

TERM OF BY-LAW

30. This By-law shall continue in force and effect for a term not to exceed five (5) years from the date of its coming into force, unless it is repealed at an earlier date by subsequent by-law.

Read and passed by the Council this 28 day of September, 2011.

 
MAYOR CLERK

**TOWN OF PLYMPTON-WYOMING
BY-LAW NUMBER 77 of 2011**

SCHEDULE A

DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

1. Library Service
2. Fire Services
3. Parks and Recreation
4. Public Works
5. General Government
6. Roads and Related

TOWN OF PLYMPTON-WYOMING
BY-LAW NUMBER 77 of 2011

SCHEDULE OF DEVELOPMENT CHARGES B-1

CHARGES IN EFFECT FROM SEPTEMBER 29, 2011 TO SEPTEMBER 28, 2012

Service	Residential Charge By Unit Type			Wind Turbine Charge Per Turbine	Non-Residential Charge Per Square Metre
	Single Detached & Semi Detached	Multiples	Apartments		
Library Service	\$256.30	\$205.18	\$154.08	\$0.00	\$0.00
Fire Services	\$914.93	\$731.62	\$549.13	\$1,253.00	\$8.95
Parks And Recreation	\$1,162.46	\$930.23	\$697.37	\$0.00	\$0.00
Public Works: Buildings And Fleet	\$433.73	\$346.83	\$259.96	\$594.00	\$4.23
General Government	\$198.61	\$159.18	\$119.03	\$0.00	\$1.94
Subtotal General Services	\$2,966.03	\$2,373.04	\$1,779.57	\$1,847.00	\$15.12
Roads And Related	\$5,143.47	\$4,114.46	\$3,085.93	\$7,044.00	\$50.36
TOTAL CHARGE	\$8,109.50	\$6,487.50	\$4,865.50	\$8,891.00	\$65.48

TOWN OF PLYMPTON-WYOMING
BY-LAW NUMBER 77 of 2011

SCHEDULE OF DEVELOPMENT CHARGES B-2

CHARGES IN EFFECT FROM SEPTEMBER 29, 2012 TO BY-LAW EXPIRATION

Service	Residential Charge By Unit Type			Wind Turbine Charge Per Turbine	Non-Residential Charge Per Square Metre
	Single Detached & Semi Detached	Multiples	Apartments		
Library Service	\$351.00	\$281.00	\$211.00	\$0.00	\$0.00
Fire Services	\$1,253.00	\$1,002.00	\$752.00	\$1,253.00	\$10.34
Parks And Recreation	\$1,592.00	\$1,274.00	\$955.00	\$0.00	\$0.00
Public Works: Buildings And Fleet	\$594.00	\$475.00	\$356.00	\$594.00	\$4.89
General Government	\$272.00	\$218.00	\$163.00	\$0.00	\$2.24
Subtotal General Services	\$4,062.00	\$3,250.00	\$2,437.00	\$1,847.00	\$17.47
Roads And Related	\$7,044.00	\$5,635.00	\$4,226.00	\$7,044.00	\$58.18
TOTAL CHARGE	\$11,106.00	\$8,885.00	\$6,663.00	\$8,891.00	\$75.65