

THE CORPORATION OF THE TOWN OF MILTON

BY-LAW NO. 053-2016

A BY-LAW TO AMEND DEVELOPMENT CHARGES BY-LAW NUMBER 087-2011 TO CONTINUE THE TRANSIT SERVICE AND TO ESTABLISH A DEVELOPMENT CHARGES BY-LAW FOR THE TOWN OF MILTON FOR SERVICES OTHER THAN TRANSIT

WHEREAS The Corporation of the Town of Milton 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* (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 Milton Development Charge Background Study" prepared by Watson and Associates Economists Ltd. dated December 8, 2015;

AND WHEREAS Council has before it a report entitled "Addendum to: Town of Milton Development Charge Background Study" prepared by Watson and Associates Economists Ltd. dated March 15, 2016;

AND WHEREAS the Council of The Corporation of the Town of Milton has given notice of and held a public meeting on the 30th day of May, 2016 in accordance with the Act and the regulations thereto;

NOW THEREFORE the Council of The Corporation of the Town of Milton hereby enacts as follows:

DEFINITIONS

1. In this By-law, including in this section:

"accessory" means, where used to describe a use or building, that the use or

building is naturally and normally incidental, subordinate in purpose or floor area or both, and exclusively devoted to a principal use or building;

“accessory dwelling” means a self contained residential unit that is subordinate in purpose to another residential dwelling unit upon the same lot and includes a granny flat and a mobile home;

“Act” means the *Development Charges Act, 1997*, S.O. 1997, c.27;

“agricultural development” means a bona fide farming operation, including greenhouses used in connection with a bona fide farming operation which are not connected to Regional water services or wastewater services, sod farms and farms for the breeding and boarding of horses, and includes, but is not limited to, barns, silos and other ancillary buildings to such agricultural development, but excluding in all circumstances any residential or commercial or retail component thereof and excludes marijuana production facilities;

“air-supported structure” means a structure consisting of a pliable membrane that achieves and maintains its shape and support by internal air pressure;

“apartment unit dwelling” means any residential unit within a building containing more than four dwelling units where the units are connected by an interior corridor, but does not include a special care/special need dwelling unit;

“back-to-back townhouse dwelling” means a building containing four or more dwelling units separated vertically by a common wall, including a rear common wall, that do not have rear yards;

“bedroom” means a habitable room of at least seven (7) square metres, including a den, study, loft, or other similar area, but does not include a living room, dining room or kitchen;

“board of education” has the same meaning as set out in the *Education Act*, R.S.O. 1990, C. E.2;

“building” means a structure occupying an area greater than ten (10) square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof, and includes, but is not limited to, an above-grade storage tank, an air-supported structure, a canopy and an industrial tent, but does not include a seasonal air-supported structure;

“Building Code Act” means the *Building Code Act, 1992*, S.O. 1992, c.23, and includes its regulations;

“canopy” includes, but is not limited to, a roof-like structure projecting more than three hundred millimetres (300 mm) from the exterior face of a building and a

separate roof-like structure such as a roof-like structure for an automotive fuel station or a drive-through facility, used or designed or intended for use for a purpose other than an aesthetic purpose or the protection of pedestrians;

“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 to:

- a) acquire land or an interest in land, including a leasehold interest;
- b) improve land;
- c) acquire, lease, construct or improve buildings;
- d) acquire (including leasing), construct or improve facilities including,
 - (i) 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, Chap. P.44; and
 - (iii) rolling stock with an estimated useful life of seven years or more; and
- e) 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, including interest on borrowing for those expenditures under clauses (a) to (e) above that are growth-related;

“central business district” means that area defined as and shown as the central business district in the Town’s in-force Official Plan, as may be amended from time to time;

“charitable dwelling” means a residential building, a part of a residential building or the residential portion of a mixed-use building maintained and operated by a corporation approved under the *Charitable Institutions Act*, R.S.O 1990, c. C.9, for persons requiring residential, specialized or group care and charitable dwelling includes a children’s residence under the *Child and Family Services Act*, R.S.O. 1990, c. C.11, a home or a joint home under the *Homes for the Aged and Rest Homes Act*, R.S.O. 1990, c. H.13, an institution under the *Mental Hospitals Act*, R.S.O. 1990, c. M.8, a nursing home under the *Nursing Homes Act*, R.S.O. 1990, c. N.7, and a home for special care under the *Homes for Special Care Act*, R.S.O. 1990, c. H.12;

“commercial” means land, buildings or portions thereof used, designed or intended for use for the purpose of offering foods, wares, merchandise, substances, articles or things for sale directly or providing entertainment or recreation facilities, recreation or recreation facilities to the public and includes the rental of wares, merchandise, substances, articles or things and includes offices and storage in connection with, related or ancillary to such uses;

“Condominium Act” means the *Condominium Act*, 1998, S.O. 1998, Chap. c.19;

“correctional group home” means a residential building or the residential portion of a mixed-use building containing a single housekeeping unit supervised on a 24-hour basis on site by agency staff on a shift rotation basis, and funded wholly or in part by any government or its agency, or by public subscription or donation, or by any combination thereof, and licensed, approved or supervised by the Province of Ontario as a detention or correctional facility under any general or special act and amendments or replacements thereto. A correctional group home may contain an office provided that the office is used only for the operation of the correctional group home in which it is located. A correctional group home shall not include any detention facility operated or supervised by the Federal Government nor any correctional institution or secure custody and detention facility operated by the Province of Ontario;

“Council” means the Council of The Corporation of the Town of Milton;

“development” means the construction, erection or placing of one or more buildings on land or the making of an addition or alteration to a building that has the effect of increasing the size or usability thereof, and includes redevelopment;

“development charge” means a charge imposed pursuant to this By-law;

“dwelling unit” means either (1) 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, or (2) in the case of a special care/special need dwelling, a room or suite of rooms used, or designed or intended for use, by one person with or without exclusive sanitary and/or culinary facilities, or more than one person if sanitary facilities are directly connected and exclusively accessible to more than one room or suite of rooms;

“garden suite” means a building containing one (1) dwelling unit where the garden suite is detached from and ancillary to an existing single detached dwelling or semi-detached dwelling on the lands and such building is designed to be portable;

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

“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 and includes the area of a mezzanine and excludes those areas used exclusively for parking garages or structures;

“group home” means a residential building or the residential portion of a mixed-use building containing a single housekeeping unit which may or may not be supervised on a 24-hour basis on site by agency staff on a shift rotation basis, and funded wholly or in part by any government or its agency, or by public subscription or donation, or by any combination thereof and licensed, approved or supervised by the Province of Ontario for the accommodation of persons under any general or special act and amendments or replacements thereto. A group home may contain an office provided that the office is used only for the operation of the group home in which it is located;

“local board” has the same definition as defined in the Act;

“local services” means those services, facilities or things 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 in respect of the lands under sections 41, 51 or 53 of the *Planning Act*, R.S.O. 1990, Chap. P.13;

“lot” means a parcel of land capable of being conveyed lawfully without any approval under the *Planning Act* or successor thereto which meets the minimum lot area requirements under the Town’s Zoning By-law;

“marijuana production facilities” means a building used, designed or intended for growing, producing, testing, destroying, storing or distribution, excluding retail sales, of medical marijuana or cannabis authorized by a license issued by the federal Minister of Health pursuant to section 25 of the Marijuana for Medical Purposes Regulations, SOR/2013-119, under the *Controlled Drugs and Substances Act*, S.C. 1996, c.19;

“mixed-use” means land or buildings used or designed or intended to be used for a combination of non-residential development and residential development;

“mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer;

“multiple dwelling” means all dwellings other than single detached dwellings, semi-detached dwellings, apartment unit dwellings, garden suites and special care/special need dwellings and includes, but is not limited to, back-to-back townhouse dwellings and stacked townhouse dwellings;

“municipality” means The Corporation of the Town of Milton;

“non-residential development” means land, buildings or portions thereof used, designed or intended for use for a non-residential purpose and “non-residential use” has the same meaning;

“non-residential purpose” means the use of land, buildings or portions thereof for any purpose other than for a residential purpose;

“non-retail development” means any non-residential development which is not a retail development;

“nursing home” means a residential building or the residential portion of a mixed-use building licensed as a nursing home by the Province of Ontario;

“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 that is exempt from taxation as a place of worship under the *Assessment Act*, R.S.O. 1990, Chap. A.31;

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

“Prescribed Index” means the price index as prescribed in the Regulation;

“Public Hospital” means lands, buildings or structures used and occupied by a hospital that receives aid under the *Public Hospitals Act*, R.S.O. 1990, c. P.40, but excludes (i) any portion of a building occupied by a tenant of the hospital, (ii) any lands, buildings or structures, or portions thereof, owned by a hospital or hospital board that are used for purposes other than a public hospital, and (iii) any residential component of such lands, buildings or structures, or portions thereof, that is not a public hospital;

“Redevelopment” means the construction, erection or placing of one or more buildings on land where all or part of a building on such land has been previously demolished, or changing the use of all or part of a building from a residential purpose to a non-residential purpose or from a non-residential purpose to a residential purpose, or changing all or part of a building from one form of residential development to another form of residential development or from one form of non-residential development to another form of non-residential development;

“Region” means The Regional Municipality of Halton;

“Regulation” means O. Reg. 82/98;

“residential development” means land, buildings or portions thereof used, designed or intended to be used as living accommodations for one or more individuals, and shall include a single detached dwelling, a semi-detached dwelling, a multiple dwelling, an apartment unit dwelling, a special care/special need dwelling, an accessory dwelling, and the residential portion of a mixed-use building and “residential use” and “residential purpose” has the same meaning;

“retail development” means land, buildings or portions thereof used, designed or intended for use for the purpose of offering foods, wares, merchandise, substances, articles or things for sale directly to the public or providing services or entertainment to the public. Retail development excludes freestanding bank kiosks and includes, but is not limited to:

- a) land, buildings or portions thereof used, designed or intended for use for the rental of wares, merchandise, substances, articles or things;
- b) offices and storage in connection with, related to or ancillary to retail use; and
- c) conventional restaurants; fast food restaurants; catering establishments, bars and taverns; beer and wine-making stores; concert halls/theatres/cinemas/movie houses/drive-in theatres; dinner theatres; casinos; amusement and theme parks; amusement arcades; bowling alleys; pet boarding kennels, pet boarding kennel services, pet obedience training centres, pet care, attendance and grooming services; fitness/recreation sport centres; hotels, motels/bed and breakfast facilities/rooming and boarding houses; gas stations and service stations; speciality automotive shops/auto repairs/collision services/car or truck washes; auto dealerships; shopping centres and plazas, including more than two attached stores under one ownership; department/discount stores; banks and similar financial institutions, including credit unions; insurance brokerages; investment advisory services; and warehouse clubs and retail warehouses;

“retirement home or lodge” means a residential building or the residential portion of a mixed-use building which provides accommodation primarily for retired persons or couples where each private bedroom or living accommodation has a separate private bathroom and separate entrance from a common hall but where common facilities for the preparation and consumption of food are provided, and common lounges, recreation rooms and medical care facilities may also be provided;

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

“seasonal air-supported structure” means an air-supported structure that is raised and/or erected for a maximum of six months in any given year to allow for the use of an outdoor sports field or portion thereof during the winter for sports-related activities and includes a seasonal sports bubble;

“seasonal structure” means a building placed or constructed on land and used, designed or intended for use for a non-residential purpose during a single season of the year where such building is designed to be easily demolished or removed from the land at the end of the single season and is erected immediately before the single season and is demolished or removed from the land immediately following the end of the single season;

“semi-detached dwelling” means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;

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

“single detached dwelling” means a completely detached building containing only one dwelling unit and includes one mobile home on a lot which contains no other dwelling unit(s);

“special care/special need dwelling” means:

- a) a building containing two or more dwelling units, which units have a common entrance from street level:
 - (i) where the occupants have the right to use in common, halls, stairs, yards, common rooms and accessory buildings;
 - (ii) which may or may not have exclusive sanitary and/or culinary facilities;
 - (iii) that is designed to accommodate persons with specific needs, including, but not limited to, independent permanent living arrangements; and
 - (iv) where support services such as meal preparation, grocery shopping, laundry, housekeeping, nursing, respite care and attendant services are provided at various levels;

and includes, but is not limited to, retirement homes or lodges, nursing homes, charitable dwellings, group homes (including correctional group homes) and hospices;

b) a building that is a student residence;

“stacked townhouse dwelling” means a building containing two or more dwelling units where each dwelling unit is separated horizontally and/or vertically from another dwelling unit by a common wall;

“temporary venue” means a building that is placed or constructed on land and is used, designed or intended for use for a particular event where the event has a duration of one (1) week or less and the building is erected immediately before the beginning of the event and is demolished or removed from the land immediately following the end of the event;

“total floor area”

- a) includes the sum total of the total areas of the floors in a building whether at, above or below grade, measured:
 - (i) between the exterior faces of the exterior walls of the building;
 - (ii) from the centre line of a common wall separating two uses;
or
 - (iii) from the outside edge of a floor where the outside edge of the floor does not meet an exterior or common wall; and
- b) includes the area of a mezzanine as defined in the Building Code Act;
- c) excludes those areas used exclusively for parking garages or structures;
- d) where a building or a portion thereof has only one wall or does not have any walls, shall be the sum of the total area of all floors in the building (1) directly beneath the roof or canopy of the building; or (2) between and/or beneath a structural system serving the function of walls, roof or canopy or any one or more of them;
- e) where the building is an above-grade storage tank, the calculation of the total floor area is determined by taking the cross-sectional area of the tank, which is πr^2 (the base area);
- f) and for the purposes of this definition, the non-residential portion of a mixed-use building is deemed to include half of any area common to the residential and non-residential portions of such mixed-use buildings;

“**town**” means the area within the geographic limits of The Corporation of the Town of Milton;

“**Town**” means The Corporation of the Town of Milton;

“**Treasurer**” means the person appointed as the Town’s Director of Corporate Services and Treasurer or his or her designate.

DESIGNATION OF SERVICES

2. It is hereby declared by the Council of the Town that all development and redevelopment of land within the town will increase the need for services.
3. Once this By-law is in force, the development charge applicable to a development as determined under this By-law shall apply without regard to the services required or used by any individual development.
4. The categories of services for which development charges are imposed under this By-law are as follows:
 - a) Services Related to a Highway;
 - b) Public Works Operations;
 - c) Fire Protection;
 - d) Library;
 - e) Recreation;
 - f) Parks Development;
 - g) Parking;
 - h) Administration (Studies);
 - i) Stormwater Management Monitoring - Area Specific – Sherwood Survey (see Schedule C);
 - j) Stormwater Management Monitoring - Area Specific – Boyne Survey (see Schedule C); and
 - k) Stormwater Management Monitoring - Area Specific – Derry Green Business Park (see Schedule C).
5. The components of the services designated in section 4 are described in Schedule A.

APPLICATION OF BY-LAW RULES

6. Development charges shall be payable in the amounts set out in Schedule B to this By-law, where:
- i) the lands are located in the area described in section 7; and
 - ii) the development of the lands requires any of the approvals set out in section 9.

AREA TO WHICH BY-LAW APPLIES

7. Subject to section 8, this By-law applies to all lands in the town.
8. This By-law shall not apply to lands that are owned by and used for the purposes of:
- a) the Town or a local board thereof;
 - b) a board of education; or
 - c) the Region or a local board thereof.

APPROVALS FOR DEVELOPMENT

9. Development charges shall be imposed on all lands or buildings that are developed for residential or non-residential development if the development requires:
- a) the passing of a zoning by-law or of an amendment to a zoning by-law 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 9 of the Condominium Act; or
 - g) the issuing of a permit under the Building Code Act in relation to a building.
10. No more than one development charge for each service designated in section 4 shall be imposed upon any lands or buildings to which this By-law applies even

though two or more of the actions described in section 9 are required before the lands or buildings can be developed.

11. Despite section 10, if two or more of the actions described in section 9 occur at different times, additional development charges shall be imposed if the subsequent action has the effect of increasing the need for services.

EXEMPTIONS

12. 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;

13. Notwithstanding section 12, 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.

14. Notwithstanding section 12, development charges shall be imposed if the additional unit has a gross floor area greater than:

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

Exemption for Industrial Development:

15. For the purpose of sections 16 to 20 inclusive, the term “existing industrial building” shall have the same meaning as that term has in the Regulation.

16. Notwithstanding any other provision of this By-law, but subject to sections 19 and 20 below, no development charge is payable with respect to the enlargement of the total floor area of an existing industrial building where the total floor area is enlarged by 50 percent or less.

17. If the total 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:

- a) determine the amount by which the enlargement exceeds 50 percent of the total floor area before the enlargement;
 - b) divide the amount determined under subsection 17 (a) by the amount of the enlargement.
18. For greater certainty in applying the exemption in this section, the total floor area of an existing industrial building is enlarged where there is a bona fide increase in the size of the existing industrial building, the enlarged area is attached to the existing industrial building, there is a direct means of ingress and egress from the existing industrial building to and from the enlarged area for persons, goods and equipment and the existing industrial building and the enlarged area are used for or in connection with an industrial purpose as set out in subsection 1(1) of the Regulation. Without limiting the generality of the foregoing, the exemption in this section shall not apply where the enlarged area 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 parking facility.
19. The exemption for an existing industrial building provided by this section shall be applied up to a maximum of 50 percent of the total floor area before the first enlargement for which an exemption from the payment of development charges was granted pursuant to this By-law or any previous development charges by-law of the Town made pursuant to the Act or its predecessor legislation. Development charges shall be imposed in accordance with Schedule B with respect to the amount of floor area of an enlargement that results in the total floor area of the industrial building being increased by greater than 50 percent of the total floor area of the existing industrial building.
20. For the purposes of this section, despite any new sites created which result in an existing industrial building being on a site separate from its enlargement or enlargements for which an exemption was granted under this section, further exemptions, if any, pertaining to the existing industrial building shall be calculated in accordance with section 19 on the basis of its site prior to any division.

Other Exemptions/Reductions:

21. Notwithstanding the provision of this By-law development charges shall not be imposed with respect to:
- a) lands or buildings used or to be used for a place of worship or for the purposes of a cemetery or burial ground exempt from taxation under *Assessment Act*, R.S.O. 1990, Chap. A.31;
 - b) development creating or adding an accessory use or accessory building not exceeding 10 square metres (107.64 square feet) of gross floor area;

- c) development creating or adding an accessory use or accessory building to a residential use where the accessory use or accessory building is not used for any commercial use or purpose;
 - d) a Public Hospital;
 - e) buildings owned by and used for the purposes of a conservation authority unless such buildings are used primarily for or in connection with (i) recreational purposes for which the conservation authority charges admission and/or fees or (ii) any commercial purposes;
 - f) agricultural development, including a one-time exemption of up to 50 sq.m. (538.2 sq.ft.) on any commercial or retail component therein;
 - g) seasonal structures; and
 - h) temporary venues.
22. Notwithstanding any other provisions of this By-law, a garden suite shall be exempt at the time a building permit is issued for the garden suite from the payment of development charges under this By-law provided that:
- a) a by-law has been passed by the Town under sections 39 and 39.1 of the Planning Act authorizing the temporary use of the garden suite;
 - b) prior to the issuance of the building permit for the garden suite, the owner shall have entered into an agreement with the Town under section 27 of the Act in a form and having a content satisfactory to the Town's solicitor and having content satisfactory to the Treasurer, to be registered on title to the lands, agreeing to pay the development charges otherwise payable under this By-law in respect of the garden suite if the garden suite is not removed from the lands within sixty (60) days of the expiry of the by-law, including any extensions thereof, described in subsection (a) or if, before that date, the lands on which the garden suite is situate are sold provided the development charges shall not be payable upon such sale if the purchaser has entered into an agreement with the Town under this subsection and the by-law, including any extensions thereof, described in subsection (a) has not expired;
 - c) within ninety (90) days of the expiry of the by-law, including any extensions thereof, described in subsection (a), the owner shall provide to the Town evidence, to the satisfaction of the Treasurer, that the garden suite was removed from the lands within sixty (60) days of the expiry of the by-law, including any extensions thereof, described in subsection (a), whereupon the Town shall provide to the owner a release of the agreement described in subsection (b) and apply to the land registrar to

delete from title to the lands any notice of the agreement registered against title to the lands;

- d) if the owner does not provide satisfactory evidence of the removal of the garden suite in accordance with subsection (c), the garden suite shall be deemed conclusively not to be a garden suite for the purposes of this By-law and the Town may, without prior notification to the owner, add the development charges payable under this By-law to the tax roll for the lands to be collected in the same manner as taxes;
- e) for the purpose of subsection (d), the development charges payable under this By-law shall be the development charges payable under this By-law for an accessory dwelling on the date the building permit was issued for the garden suite; and
- f) the timely provision of satisfactory evidence of the removal of the garden suite in accordance with subsection (c) shall be solely the owner's responsibility.

AMOUNT OF CHARGES

Residential

23. The development charges set out in Schedule B to this By-law shall be imposed on residential development of lands or buildings, including a dwelling unit accessory to a non-residential use and, in the case of a mixed-use building, on the residential uses in the mixed-use building, according to the type of residential unit, and calculated with respect to each of the services according to the type of residential use.

Non-Residential

24. The development charges described in Schedule B to this By-law shall be imposed on non-residential uses of lands or buildings, and, in the case of a mixed-use building, on the non-residential uses in the mixed-use building, and calculated with respect to each of the services according to the total floor area of the non-residential use.

Redevelopment - Demolitions

25. In the case of a demolition of all or part of a building:

- a) a credit shall be allowed against the development charges otherwise payable pursuant to this By-law, provided that where a demolition permit has been issued and has not been revoked, a building permit has been

issued for the redevelopment within five (5) years from the date the demolition permit was issued;

- b) the credit shall be calculated based on the portion of the building used for a residential purpose that has been demolished by multiplying the number and type of dwelling units demolished, or in the case of a building used for a non-residential purpose that has been demolished by multiplying the non-residential total floor area demolished, by the relevant development charges under this By-law in effect on the date when the development charges are payable pursuant to this By-law with respect to the redevelopment;
 - c) no credit shall be allowed where the demolished building or part thereof would have been exempt pursuant to this By-law;
 - d) where the amount of any credit pursuant to this section exceeds, in total, the amount of the development charges otherwise payable under this By-law with respect to the redevelopment, the excess credit shall be reduced to zero and shall not be carried forward unless the carrying forward of such excess credit is expressly permitted by a phasing plan for the redevelopment that is acceptable to the Treasurer; and
 - e) despite subsection 25(a) above, where the building cannot be demolished until the new building has been erected, the owner shall notify the Town in writing and pay the applicable development charges for the new building in full and if the existing building is demolished not later than twelve (12) months from the date a building permit is issued for the new building, the Town shall provide a refund calculated in accordance with this section to the owner without interest. If more than twelve (12) months is required to demolish the existing building, the owner shall make a written request to the Town and the Treasurer may extend the time in which the existing building must be demolished in his or her sole and absolute discretion and upon such terms and conditions as he or she considers necessary or desirable and such decision shall be made prior to the issuance of the first building permit for the new building.
26. Notwithstanding any other provisions of this By-law with respect to the lands within the central business district, for any change of use from non-retail to retail by demolition and redevelopment, the retail development charges or the difference between the non-retail and retail development charges shall not apply, however, if there is a change of use plus expansion of non-retail use to retail use, the retail development charges would be imposed on the expansion.

Redevelopment - Conversions

27. In the case of a conversion of all or part of a building:

- a) a credit shall be allowed against the development charges otherwise payable under this By-law;
- b) the credit shall be calculated based on the portion of the building that is being converted by multiplying the number and type of dwelling units being converted or the non-residential total floor area being converted by the relevant development charges under this By-law in effect on the date when the development charges are payable pursuant to this By-law with respect to the redevelopment;
- c) no credit shall be allowed where the building or part thereof prior to conversion would have been exempt pursuant to this By-law; and
- d) where the amount of any credit pursuant to this section exceeds, in total, the amount of the development charges otherwise payable under this By-law with respect to the redevelopment, the excess credit shall be reduced to zero and shall not be carried forward unless the carrying forward of such excess credit is expressly permitted by a phasing plan for the redevelopment that is acceptable to the Treasurer.

28. Notwithstanding any other provisions of this By-law with respect to the lands within the central business district, for any conversion within an existing building from a non-retail use to a retail use, the retail development charges or the difference between the non-retail and the retail development charges shall not apply, however, if there is a conversion plus expansion of a non-retail use to a retail use, the retail development charges would be imposed on the expansion.

Exemptions, Relief, Credits, Adjustments Not Cumulative

29. Only one of the applicable exemption(s), relief, credit(s) or adjustment(s) set out above in sections 12 to 22 inclusive, and in sections 25 to 28 inclusive, shall be applicable to a development or redevelopment. Where the circumstances of a development or redevelopment are such that more than one type of exemption, relief, credit or adjustment could apply, only one type of exemption, relief, credit or adjustment shall apply and it shall be the exemption, relief, credit or adjustment that results in the lowest development charges being payable under this By-law.

30. Where under this By-law an exemption of the development charge is granted or permitted, should the development or redevelopment result in a use other than a use for which the exemption was granted, discovered through an inspection carried out by the Chief Building Official or his or her designate, pursuant to the Building Code Act, or otherwise, the Town will charge the development charges that would have been imposed at building permit issuance had the exemption not been granted, plus interest from such time to the time of the updated charge.

TIME OF PAYMENT OF DEVELOPMENT CHARGES

31. Development charges applicable to residential development and non-residential development shall be calculated, payable and collected as of the date a building permit under the Building Code Act is issued in respect of the building for the use to which the development charge applies, unless the development charge is to be paid at a different time pursuant to section 32 herein or to an agreement entered into between the Town and the owner under subsection 27(1) of the Act.
32. Notwithstanding section 31 herein, for residential development that requires approval of a plan of subdivision under section 51 of the Planning Act, a consent under section 53 of the Planning Act, site plan approval under section 41 of the Planning Act or a description under section 9 of the Condominium Act (collectively referred to as the “plan of subdivision”) and for which a subdivision agreement, consent agreement, site plan agreement or condominium agreement (collectively referred to as the “subdivision agreement”) is entered into, the portion of the development charge attributable to the Services Related to a Highway Service Component and/or the Area Specific Stormwater Management Charge as set out in Schedule B shall be calculated, payable and collected as at the date the subdivision agreement between the Town and the owner is registered (unless an agreement is entered into between the Town and owner under subsection 27(1) of the Act or section 36 herein), on the basis of the following:
 - a) the proposed number and type of dwelling units; and
 - b) with respect to blocks in the plan of subdivision intended for future development, the maximum number of dwelling units permitted under the then applicable zoning, whether or not there is a holding symbol in the zoning by-law as authorized by section 36 of the Planning Act.
33. If at the time of issuance of a building permit or permits related to a plan of subdivision for which payments have been made pursuant to section 32, the actual total number and type of dwelling units for which building permits have been and are being issued, is greater than that used for the calculation and payment referred to in section 32, an additional payment shall be required with respect to the amount of the Services Related to a Highway Service Component and/or the Area Specific Stormwater Management Charge, calculated by multiplying the applicable amount, adjusted to the date of payment by indexing as provided in section 44 herein, for the Services Related to a Highway Service Component and/or the Area Specific Stormwater Charge by the difference between the number and type of dwelling units for which building permits have been and are being issued and the number and type of dwelling units for which payments have been made pursuant to section 32 and this section.

34. If following the issuance of all building permits for all development within a plan of subdivision or for all development in a block within a plan of subdivision that had been intended for future development and for which payments have been made pursuant to section 32, the actual total number and type of dwelling units is less than that used for the calculation and payment referred to in section 32, a refund shall become payable by the Town to the person who originally made the payment referred to in section 32, which refund shall be calculated by multiplying the applicable amount for the Services Related to a Highway Service Component and/or the Area Specific Stormwater Management Charge in effect at the time such payments were made by the difference between the number and type of dwelling units for which payments were made pursuant to section 32 and the number and type of dwelling units for which building permits were issued.
35. Notwithstanding sections 32 through 34 inclusive, in the case of an apartment unit dwelling that is developed at a minimum density of one hundred dwelling units per net hectare pursuant to plans and drawings approved under section 41 of the Planning Act, the Services Related to a Highway Service Component and/or the Area Specific Stormwater Management Charge under this By-law shall be payable on the date a permit is issued under the Building Code Act in relation to the apartment unit dwelling on lands to which the development charges under this By-law apply.

ALTERNATIVE PAYMENT AGREEMENTS

36. Council may enter into an agreement under section 27 of the Act, in a form and having content satisfactory to the Town's solicitor and having content satisfactory to the Treasurer, with any person who is required to pay a development charge providing for all or any part of the development charge to be paid before or after it would otherwise be payable.
37. Council directs the Chief Building Official or his or her designate to withhold the issuance of a building permit in relation to a building on land to which the development charge applies unless the development charge has been paid.

PAYMENT BY MONEY OR SERVICES

38. Payment of development charges shall be by cash, debit, bank draft or certified cheque.
39. In the alternative to payment by the means provided in section 38 herein, the Town may, by a written agreement entered into with the owner, accept the provision of services in full or partial satisfaction of the development charges otherwise payable.
40. If the Town and the owner cannot agree as to the reasonable cost of doing the work under section 39, the dispute shall be referred to Council whose decision shall be final and binding.

41. 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 or that local connections to storm drainage facilities be installed at the owner's expense.
42. Any refund or credit required to be given by the Town to an owner shall be in relation to a service as per subsection 39(1) of the Act. The Town may agree by agreement to provide a credit in relation to another service as per subsection 39(3) of the Act or may provide for another basis for recovery.
43. If development charges or any part thereof payable pursuant to this By-law remain unpaid after such charges are payable, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as taxes.

INDEXING

44. Indexing of the development charges imposed pursuant to this By-law shall be implemented annually on April 1st each year commencing from by-law passage, in accordance with the Prescribed Index for the most recent year over year period. Council may determine not to implement indexing in any year in its sole and absolute discretion without amendment to the by-law.

SCHEDULES

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

- Schedule A - Components of Services Designated in section 4
- Schedule B - Residential and Non-Residential Development Charges
- Schedule C - Map identifying Area Specific Stormwater Management Charges for Sherwood Survey, Boyne Survey and Derry Green Survey

CONFLICTS

46. 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, and a conflict exists between the provisions of this By-law and such agreement, the provisions of the agreement shall prevail to the extent of such conflict.
47. Notwithstanding section 46, where a development which is the subject of an agreement to which section 46 applies, is subsequently the subject of one or more of the actions described in section 9, 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.

SEVERABILITY

48. If, for any reason, any provision of this By-law is held to be invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted, amended or modified, in whole or in part or dealt with in any other way.

REFERENCES TO LEGISLATION

49. References in this By-law to any legislation (including but not limited to regulations and by-laws) or any provision thereof include such legislation or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor legislation thereto.

DATE BY-LAW EXPIRES

50. This By-law will expire at 12:01 AM on June 28, 2021 unless it is repealed by Council at an earlier date.

EXISTING BY-LAW AMENDED

51. By-law Number 087-2011 is hereby amended by the following provisions:

- a) Clauses (a) through (l) of section 4 are hereby repealed and replaced with a new clause (a) as follows: (a) Transit;
- b) Schedule A to By-law Number 087-2011 is hereby repealed and replaced with a new Schedule A, attached hereto as Schedule 1, and notwithstanding section 45 this schedule forms part of this By-law;
- c) Schedule B to By-law Number 087-2011 is hereby repealed and replaced with a new Schedule B, attached hereto as Schedule 2, and notwithstanding section 45 this schedule forms part of this By-law.

52. By-law Number 087-2011 remains in full force and effect, as amended by the foregoing.

DATE BY-LAW IN FORCE

53. This By-law shall come into effect on June 28, 2016.

54. A certified copy of this By-law may be registered in the by-law register in the Land Registry Office against all lands in the town and may be registered against title to any land to which this By-law applies.

PASSED IN OPEN COUNCIL ON JUNE 27, 2016.

_____ Mayor
Gordon A. Krantz

_____ Town Clerk
Troy McHarg

SCHEDULE A

COMPONENTS OF SERVICES DESIGNATED IN SUBSECTION 4

100% Eligible Services

Stormwater Management Monitoring (Area Specific Charges)

- Sherwood Survey
- Boyne Survey
- Derry Green Business Park

Services Related to a Highway

- Roads, bridges, structures, sidewalks, streetlights and other related road services

Public Works Operations

- Operations Vehicles and Equipment
- Operations Facilities

Fire Protection

- Fire Facility
- Fire Vehicles
- Fire Equipment and Gear

90% Eligible Services

Library

- Library Facility
- Library Collection Materials

Parking

- Parking Facility and Spaces

Administration

- Studies

Recreation

- Recreation Facilities

Parks Development

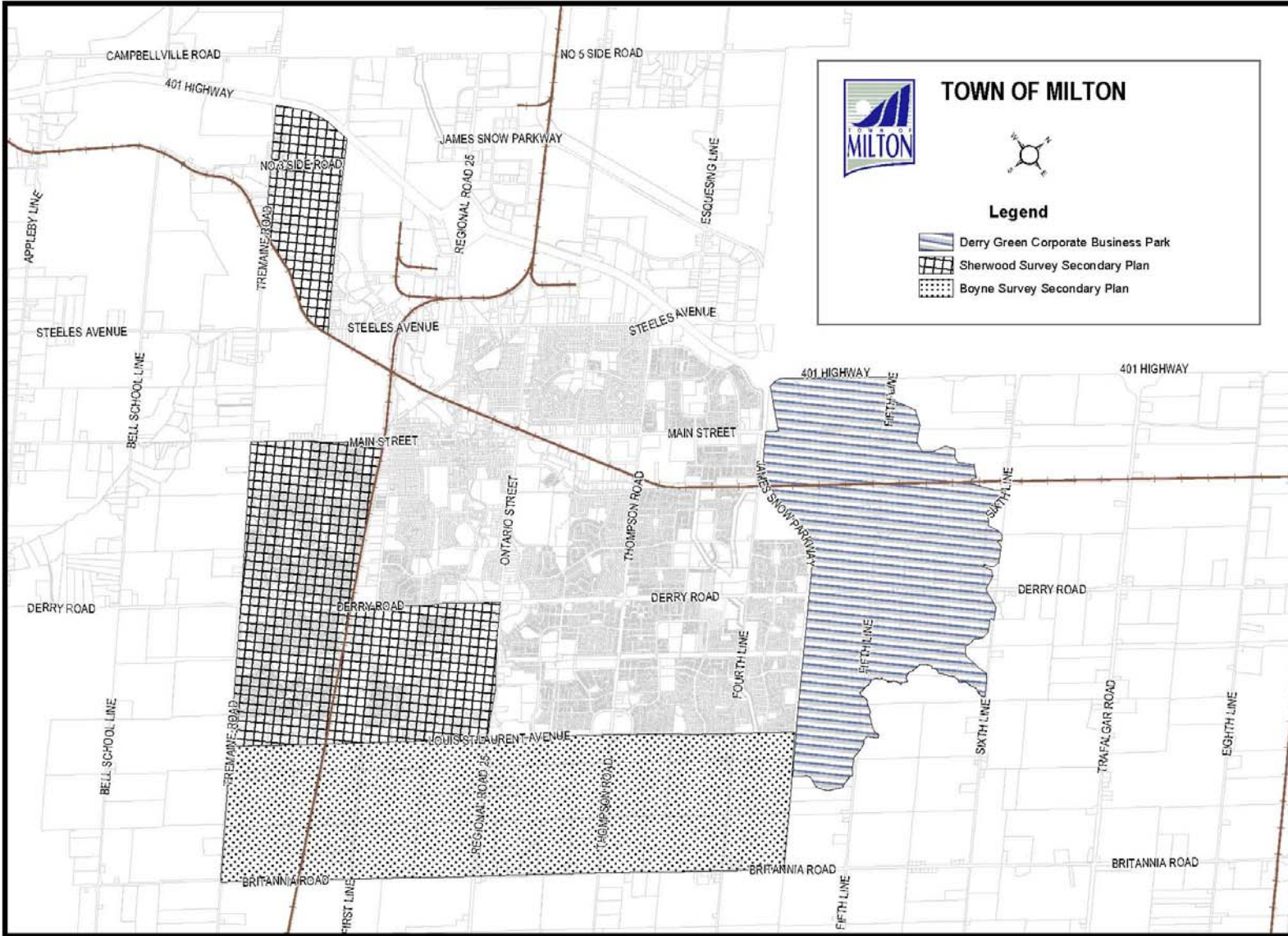
- Parkland Development

SCHEDULE B
BY-LAW NO. 053-2016
SCHEDULE OF DEVELOPMENT CHARGES
2016\$

Service	RESIDENTIAL					NON-RESIDENTIAL	
	Single and Semi-Detached Dwelling	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Other Multiples	Special Care/Special Need Dwelling	Retail (per ft ² of Total Floor Area)	Non-Retail (per ft ² of Total Floor Area)
Municipal Wide Services:							
Services Related to a Highway	6,139	3,296	2,215	4,394	1,918	4.78	2.19
Public Works Operations	1,021	548	368	731	319	0.34	0.15
Fire Protection Services	399	214	143	286	125	0.44	0.20
Recreation	4,743	2,547	1,712	3,396	1,483	0.29	0.13
Parks Development	4,232	2,272	1,527	3,030	1,322	0.26	0.12
Library	717	385	258	514	224	0.05	0.02
Administration	430	231	156	308	134	0.25	0.12
Parking	293	158	106	210	92	0.17	0.08
Total Municipal Wide Services	17,974	9,651	6,485	12,869	5,617	6.58	3.01
Area Specific Services							
Stormwater Management - Sherwood Survey	204	110	74	146	64	0.17	0.11
Stormwater Management - Boyne Survey	74	40	26	53	23	0.09	0.05
Stormwater Management - Derry Green	-	-	-	-	-	0.16	0.07
GRAND TOTAL MUNICIPAL SERVICES (Excluding Stormwater for Areas Noted Below)	17,974	9,651	6,485	12,869	5,617	6.58	3.01
GRAND TOTAL - SHERWOOD SURVEY	18,178	9,761	6,559	13,015	5,681	6.75	3.12
GRAND TOTAL - BOYNE SURVEY	18,048	9,691	6,511	12,922	5,640	6.67	3.06
GRAND TOTAL - DERRY GREEN	17,974	9,651	6,485	12,869	5,617	6.74	3.08

This schedule has been indexed to 2016 \$ as the rates will be indexed prior to passage of this By-law

Schedule C
 Area Specific Stormwater Management Charges
 (Sherwood Survey, Boyne Survey and Derry Green Corporate Business Park)



SCHEDULE 1

SCHEDULE A

COMPONENTS OF SERVICES DESIGNATED IN SUBSECTION 4

90% Eligible Services

Transit

Transit Facilities

Transit Vehicles

SCHEDULE 2

SCHEDULE B
BY-LAW NO. 087-2011
SCHEDULE OF DEVELOPMENT CHARGES
2011\$

Service	RESIDENTIAL					NON-RESIDENTIAL	
	Single and Semi-Detached Dwelling	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Multiple Dwellings	Special Care/Special Need Dwellings	Retail (per ft ² of Total Floor Area)	Non-Retail (per ft ² of Total Floor Area)
Municipal Wide Services:							
Transit	77	48	32	58	25	0.05	0.02
Total Municipal Wide Services	77	48	32	58	25	0.05	0.02