

THE CORPORATION OF THE TOWNSHIP OF OTONABEE-SOUTH MONAGHAN

BY-LAW NUMBER 2010-67

A BY-LAW WITH RESPECT TO DEVELOPMENT CHARGES

WHEREAS the Township will experience growth through development and re-development;

AND WHEREAS development and re-development requires the provision of physical and social services by the Township;

AND WHEREAS Council desires to ensure that the capital cost of meeting growth-related demands for or burden on municipal services does not place an excessive financial burden on the Township of or its existing taxpayers while at the same time ensuring new taxpayers contribute no more than the net capital cost attributable to providing the current level of municipal services;

AND WHEREAS the Development Charges Act, 1997 permits Council to pass by-laws for the imposition of development charges if development or re-development of land within the Township is for uses which would increase the need for municipal services and any one or more of the actions set out in subsection 2(2) of the Development Charges Act, 1997 are required for such development or re-development;

AND WHEREAS Council had before it a report entitled the “**Draft Final Report, Development Charges Study for the Township of Otonabee-South Monaghan**”, submitted by Morehouse Associates (a division of 1322365 Ontario Inc.) dated August 2010 (the “Study”);

AND WHEREAS Council has reviewed the Study and has considered the comments of the public at a public meeting duly called on September 13, 2010 to consider the enactment of a by-law under the Development Charges Act, 1997.

**THE CORPORATION OF THE TOWNSHIP OF OTONABEE-SOUTH MONAGHAN
BY THE COUNCIL THEREFORE ENACTS AS FOLLOWS:**

1. In this By-law:
 - (a) any term printed in a bold typeface has the same meaning as that which exists and is defined in the Act or Regulation.
 - (b) Capitalized terms have the following meanings:
 - (i) “Act” means the Development Charges Act, 1997;
 - (ii) “Agricultural Use” means a use of land, buildings or structures for the purpose of field crops, fruit farming, market gardening, dairying, animal husbandry, poultry or beekeeping and such uses, structures and buildings as are customarily related to a farming operation, but does not include a Dwelling Unit;
 - (iii) “Bedroom” (BR) includes any room which can be used as sleeping quarters but does not include a kitchen, bathroom, living room or dining room;
 - (iv) “Board of Education” has the same meaning as that specified in subsection 29(1) of the Act;
 - (v) “Capital Cost” means costs incurred or proposed to be incurred by a Township or a local board or commission thereof directly or under an agreement;
 - (a) to acquire land or an interest in land,
 - (b) to improve land,
 - (c) to acquire, construct or improve buildings and structures,
 - (d) to acquire, construct or improve facilities including
 1. rolling stock with an expected useful life of seven years or more, furniture and equipment, excluding computer equipment and

2. materials acquired for circulation, reference or information purposes by a library board as defined in the Public Libraries Act, 1998, and
- (e) to undertake studies in connection with any of the matters in clauses (vi)(a) through (d), required for the provision of designated services
- (vi) “Commercial Use” means the use of land, structures or buildings for the purposes of buying or selling commodities and services, but does not include Industrial Use or Agricultural Use, but does include hotels, motels, motor inns and boarding, lodging and rooming houses;
 - (vii) “Council” means the Council of the Township of Otonabee-South Monaghan;
 - (viii) “Development” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof, and includes redevelopment;
 - (ix) “Development Charge” means a charge imposed with respect to Growth-Related Net Capital Costs against land pursuant to the provisions of the within by-law;
 - (x) “Dwelling Unit” means one or more habitable rooms designed or intended for use by one household exclusively as an independent and separate unit in which separate kitchen and sanitary facilities are provided for the exclusive use of the household with a private entrance from outside the building or from a common hallway or stairway inside the building and includes a mobile home;
 - (xi) “Existing” means the number, use and size that existed as of the date this by-law was passed;
 - (xii) “Growth-Related Net Capital Cost” means the portion of the Net Capital Cost of services that is reasonably attributable to the need for such Net Capital Cost that results or will result from new development in all or a defined part of the Township;

- (xiii) “Industrial Use” means the use of land, buildings or structures designed for the purpose of manufacturing, assembling, making, preparing, inspecting, ornamenting, finishing, treating, altering, repairing, warehousing or storing or adapting for sale of any goods, substance, article or thing, or any part thereof and the storage of building and construction equipment and materials, as distinguished from the buying and selling of commodities and the supplying of personal services. This definition does not include Agricultural Use;
- (xiv) “Institutional Use” means land, buildings, structures or part thereof used by any organization, group or association for promotion of charitable, educational or benevolent objectives and not for profit or gain;
- (xv) “Local Board” means a school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of the Township of Otonabee-South Monaghan or any part or parts thereof;
- (xvi) “Local Services” means those services, facilities or things which are within the boundaries of, about or are necessary to connect lands to Services and an application has been made in respect of the lands under sections 51 and 53 of the Planning Act, 1990;
- (xvii) “Township” means the Township of Otonabee-South Monaghan;
- (xviii) “Net Capital Cost” means the Capital Cost less capital grants, subsidies and other contributions made to the Township or that the council of the Township anticipates will be made, including conveyances or payments under sections 41, 51 and 53 of the Planning Act, 1990, in respect of the Capital Cost;

- (xix) “Non-Residential Use” includes Commercial, Industrial and Institutional Uses, but not Agricultural or Religious Uses;
- (xx) “Official Plan” means the Official Plan(s) adopted for the Township, as amended and approved;
- (xxi) “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;
- (xxii) “Rate” means the interest rate established weekly by the Bank of Canada based on Treasury Bills having a term of 91 days;
- (xxiii) “Regulation” means O. Reg. 82/98 as at February 20, 1998;
- (xxiv) “Residential Building” means a building, occupied or capable of being occupied as a home, residence or sleeping place by one or more persons, containing one or more Dwelling Units but not including motels, hotels, tents, truck campers, tourist trailers, mobile camper trailers or boarding, lodging or rooming houses;
- (xxv) “Residential Use” means the use of a building or structure or portion thereof for one or more Dwelling Units. This also includes a Dwelling Unit on land that is used for an Agricultural Use;
- (xxvi) “Services” means those services, facilities, accommodations and things shown on Schedule “A” to this by-law;
- (xxvii) “Servicing Agreement” means an agreement to provide municipal services by the Township of Otonabee-South Monaghan to specified lands within the Township;
- (xxviii) “Services in Lieu” means those Services specified in an agreement made under clause 8 of this by-law;
- (xxix) “Single Family Dwelling Unit” means one Dwelling Unit in a Residential Building;
- (xxx) “Small Apartment” means an apartment unit with less than 2 Bedrooms;
- (xxxix) “Semi-Detached Dwelling Unit” means two Dwelling Units in a Residential Building;

- (xxxii) “Triplex Dwelling Unit” means three Dwelling Units in a Residential Building;
- (xxxiii) “Unit” includes a Dwelling Unit and Apartment Unit;
- (xxxiv) “Zoning By-Law” means the Zoning By-Law of the Township of Otonabee-South Monaghan, plus any amendments or any successor thereof passed pursuant to Section 34 of the Planning Act, S.O. 1990;

2.

- (a) This by-law applies to all lands in the Township of Otonabee-South Monaghan whether or not the land or use thereof is exempt from taxation under s. 13 of the Assessment Act.
- (b) Notwithstanding clause 2(a) above, this by-law does not apply to the development of land that is owned by and used for the purposes of:
 - (i) A Board of Education;
 - (ii) The Township of Otonabee-South Monaghan, or any local board or commission thereof; and
 - (iii) The County of Peterborough or any local board thereof.

3. Council hereby determines that the development of land, buildings or structures for Residential and Commercial Uses or any combination thereof have required or will require the provision, enlargement, expansion or improvement of the Services shown in the proportions applicable to each such use on Schedule “A” hereto. No charge is imposed for Industrial, Agricultural or Religious Uses.

4.

- (a) Council hereby imposes the development charges shown on Schedule “B” hereto to those categories of Residential and Commercial Uses of land, buildings and structures shown on the said Schedule “B” including the phase-in program to defray the growth-related net capital cost of providing, enlarging, expanding or improving the Services shown on Schedule “A”;
- (b) No Development charge shall be imposed when an existing Dwelling Unit is enlarged, or one or two additional Dwelling Units are being added to an existing single detached dwelling unless the total gross floor area of the

additional one or two dwellings exceeds the gross floor area of the existing dwelling.

For all Residential Uses other than a single detached dwelling, no development charge shall be imposed when one additional Dwelling Unit is being added to an existing Residential Building unless the gross floor area of the additional unit exceeds the gross floor area of the smallest Dwelling Unit contained in the Residential Building.

- (c) In the case of a Development containing more than one use or category of use shown on Schedule “B” hereto, each such use shall bear its applicable development charge in the proportion that the gross floor area of such use or category of use bears to the total gross floor area of the Development.
- (d) No development charge is imposed if a building that has been destroyed or legally demolished is rebuilt within five years of the date of demolition or destruction. If a different type of building is built on the site, a credit equal to the development charge that would have been imposed on the original building on a neighboring site under this by-law will be applied to the development charges otherwise payable. In no case will a net credit be created.
- (e) The whole of the development charge imposed hereunder shall be calculated and paid in full on the date a building permit under the Building Code Act is issued in respect of the building or structure for the use to which the development charge hereunder applies.
- (f) No building permit shall be issued for any building or structure in respect of which the development charges applicable hereunder remains unpaid, or unless an agreement is in force that specifies a later payment date.
- (g) The Council may enter into a written agreement providing for payment of the development charges on any date that Council decides is appropriate.

5. Nothing in this by-law prevents Council from requiring, as a condition of approval under section 51, or 53 of the Planning Act, 1990, that the Owner, at his own expense, install such Local Services as Council may require or that the Owner install local connections to municipal services at the Owner's expense.
6. The development charges established hereunder may be adjusted without amendment to this by-law annually as of the 31st of December in each year commencing on 31st December, 2011, in accordance with the regulated inflation index.
7.
 - (a) Council, by written agreement, may permit an Owner to commute the whole or such part of the development charge applicable to the Owner's development, as may be specified in the agreement, by the provision at the Owner's sole expense 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 otherwise applicable to his development equal to the reasonable cost of providing the Services in Lieu.
 - (b) In any agreement made under clause 7 (a), Council may also give a further credit equal to the owner's reasonable cost of providing Services in addition to or of a greater size or capacity than would be required under this by-law, but may not give the credit against the development charge payable.
 - (c) Any dispute as to the reasonable cost of providing the Services in Lieu or the Services mentioned in clause 7 (a) and (b) above, shall be referred to the Township of Council whose decision shall be final and binding.
8. A copy of this by-law may be registered against such lands in the Township of Otonabee-South Monaghan as Council by resolution from time to time may direct.
9. Any amount of development charge, which remains unpaid after the date specified in clause 4 or in a written agreement, shall be added to the tax roll and collected as unpaid taxes.
10. The Treasurer of the Township of Otonabee-South Monaghan shall administer this by-law.

- 11.
- (a) Any agreement made under section 51 or 53 of the Planning Act, 1990 before the date this by-law comes into force which provides for the payment of a lot levy, capital contribution or other charge shall remain in full force and effect and be enforceable according to its terms.
 - (b) The Treasurer in calculating the development charge payable under clause 4, above shall deduct from the development charge otherwise payable any amount paid pursuant to an agreement mentioned in clause 7, above.
 - (c) Where a lot levy, impost fee or development charge was collected as a condition for a lot created by consent pursuant to Section 53 of the Planning Act S.O. 1990, then the amount collected shall be deducted from the Development Charge at the time the Building Permit is issued.

12.

- (a) Council directs the Treasurer to create individual reserve funds, separate from the other reserve funds of the Township, including reserve funds created or administered under section 107 of the Municipal Act for each of the services listed in Schedule "A" to this by-law. The Treasurer shall deposit the development charges received under this by-law into the appropriate reserve fund thus created and shall pay from the appropriate reserve fund any amounts necessary to defray the Net Capital Cost of the service.
- (b) The amounts contained in the reserve funds established under clause 12(a) above, shall be invested in accordance with subsection 107 of the Municipal Act and any income received from such investment shall be credited to the said reserve fund in the proportions determined by the balances in the accounts listed in Schedule "A" to this by-law as of December 31 of the previous year.

13. Where any unpaid development charges are collected as taxes under clause 9 above, the money so collected shall be credited to the said reserve funds in the proportions provided for in Schedule "A".

14. The Treasurer of the Township of shall, in each year on or before March 31, furnish to Council a statement in respect of the reserve fund for the prior year established hereunder containing the information required under the Regulation.
15.
 - (a) If this by-law is amended or repealed by Council or the Ontario Municipal Board, the Treasurer shall determine within 30 days of the amendment or repeal whether any owner has overpaid in respect of the development charge payable hereunder immediately prior to the repeal or amendment of this by-law and if such an overpayment has been made, the Treasurer shall calculate the amount of such overpayment.
 - (b) Any overpayment determined under clause 16(a), above shall be paid to the person who made the payment by his or her last known address within 30 days of the date of the repeal or amendment of this by-law.
 - (c) The refund payable under clause 15(b), above shall be paid with interest calculated from the date upon which the overpayment was collected to the date on which the refund is made. Such interest shall be paid at the Bank of Canada Rate in effect from time to time from the date of enactment of this by-law as adjusted in clause 15(d), below.
 - (d) The Bank of Canada Rate in effect on the date of enactment of this by-law shall be adjusted on the first business day of January, 2011 to the Rate established by the Bank of Canada on that day and shall be adjusted four times each year thereafter on the first business day of January, April, July and October to the Rate established by the Bank of Canada on the day of the adjustment.
16. This by-law shall continue in force and effect for a term of 5 years from the date of its coming into force.
17. Council may pass one or more development charge by-laws that impose a development charge on a specific area of the Township. Such charges shall be in addition to the charges imposed through this by-law.
18. This by-law comes into force on the date it is given third and final reading. By-law read a first and second time this 18th day of October, A. D. 2010.

By-law read a third time and finally passed this 18th day of October , A. D. 2011.

Reeve – David P. Nelson

Clerk- Heather Scott

Original signed by Reeve and Clerk

SCHEDULE "A"

TO THE TOWNSHIP OF TONABEE-SOUTH MONAGHAN

BY-LAW 2010-_____

Proportionate Share	Residential	Commercial
General Government	2.1%	2.3%
Fire Protection	10.4%	11.4%
Public Works	74.5%	86.3%
Recreation	7.3%	0.0%
Library Services	5.7%	0.0%
Total municipal-wide	100.0%	100.0%

SCHEDULE "B"

TO THE TOWNSHIP OF OTONABEE-SOUTH MONAGHAN
BY-LAW 2010-_____

For the Period Commencing January 1, 2010 and Ending on
December 31, 2011

Development Charge

Residential Development Charges – Per Unit

Singles and Doubles	\$2041
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Multiple Unit Buildings	\$1,526
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Commercial Development Charges – Per Square Feet of building space

Sector	Total
Commercial	\$2.26

**For the Period Commencing January 1, 2012, Ending on
December 31, 2012**

Development Charge

Residential Development Charges – Per Unit	
Singles and Doubles	\$3,061
Multiple Unit Buildings	\$2,290
Commercial Development Charges – Per Square Feet of building space	
Sector	Total
Commercial	\$2.26

**For the Period Commencing January 1, 2013 and Ending
on the date the By-law expires**

Development Charge

Residential Development Charges – Per Unit	
Singles and Doubles	\$4,082
Multiple Unit Buildings	\$3,053
Commercial Development Charges – Per Square Feet of building space	
Sector	Total
Commercial	\$2.26