

THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON

BY-LAW NO. 2010-058

to impose development charges against land in the Municipality of Clarington pursuant to the Development Charges Act, 1997 (the "Act")

WHEREAS subsection 2(1) of 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 arising from the development of the area to which the by-law applies;

AND WHEREAS Council has before it a report entitled "Development Charges Background Study, The Municipality of Clarington, April 2010" (the "Study");

AND WHEREAS Council gave notice to the public of a public meeting and held a public meeting pursuant to section 12 of the Act on May 17, 2010, prior to which the Study and a proposed development charges by-law were made available to the public, and Council heard comments and representations from all persons who applied to be heard (the "Public Meeting") and considered Report FND-013-10 dated May 17, 2010 (the "Staff Report");

AND WHEREAS staff of the Municipality considered the public comments and representations made at the Public Meeting at the meeting of the Council held on May 31, 2010;

AND WHEREAS at its meeting on May 31, 2010, by Resolution No. C-228-10 Council approved the recommendations contained in Report FND-013-10;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON ENACTS AS FOLLOWS:

Definitions

1. (1) In this By-law the term:

Accessory: where used to describe a building means that the building is naturally and normally incidental, subordinate in purpose or floor area or both, and is exclusively devoted to a principal use or building located on the same lot.

Act: means the Development Charges Act, 1997, S.O. 1997, c.27, as it may be amended from time to time or a successor statute;

Agricultural: means a bona fide farming operation, including farm buildings and buildings accessory thereto, sod farms, the breeding and/or the boarding of horses, greenhouses, and residential buildings which are used exclusively

to provide living accommodation for employees of the operator of the land devoted to the practice of farming and which residential buildings are occupied for fewer than eight (8) consecutive months during each calendar year and must be a secondary residence;

Agri-tourism: means an agricultural establishment that provides a service to promote and educate the public about farming and agricultural activities. An agri-tourism use shall be located on the same lot as a farm. An agri-tourism use may include a farm produce outlet. Agri-tourism may include the following uses: corn or hay maze; petting zoo; hayrides; sleigh rides; buggy or carriage rides; seasonal activities/events related to the farm and farm tours, but shall not include: restaurant, amusement park, special event, overnight camping or motorized recreational competition with the exception of tractor pulls.

Air-Supported Structure: means an air supported structure as defined in the Building Code Act;

Apartment: means a residential building, or the residential portion of a mixed-use building containing 4 or more dwelling units which have a common entrance from the street level, common halls, stairs, elevators and/or yards, and which is not a dwelling unit or dwelling units contained in a single-detached dwelling, a semi-detached dwelling, a townhouse (rowhouse) dwelling, or a multiple dwelling;

Approval Authority: means the Region's Commissioner of Planning, the Region's Land Division Committee or the Ontario Municipal Board having jurisdiction to approve a plan of subdivision under section 51 of the Planning Act, to grant a consent under section 53 of the Planning Act, or to approve a description under section 50 of the Condominium Act, whichever Act is applicable in the circumstances;

Board of Education: means a board as defined in Subsection 1(1) of the Education Act 1997, s.o.1997, c.27, as amended;

Brownfields: means vacant or underutilized properties, with potential for redevelopment, which are in the process of site remediation by completing a Record of Site Condition or successor documentation under the regulations issues by the Ministry of Environment;

Building: means a building or structure occupying an area greater than 10 square metres consisting of a wall, roof, and floor or any of them or a structural system serving the function thereof, and includes an air-supported structure;

Building Code Act: means the Building Code Act, 1992, S.O. 1992, chapter 23, as amended and all Regulations thereto including the Ontario Building Code, 2006, as amended, and as they may be amended or replaced from time to time;

Conversion: means the change in use of a portion or all of a building as allowed under the provisions and regulations of the Municipality's Zoning Bylaws;

Demolish: means to do anything in the removal of a building or a part thereof and the term "demolition" has a corresponding meaning;

Development: includes redevelopment;

Development Charge: means a development charge imposed by this By-law;

Dwelling Unit: means one or more habitable rooms designed or intended to be used together as a single and separate housekeeping unit by one person

or by more than one person, containing its own kitchen and sanitary facilities, with a private entrance from outside the unit itself;

Dwelling, Apartment: means a dwelling unit contained in an apartment;

Dwelling, Apartment-in-House:, means a dwelling located within a permitted single detached dwelling or semi-detached dwelling created through converting part of or adding onto the principal dwelling.

Dwelling, garden suite: means a one unit residential structure containing washroom and kitchen facilities that is designed to be portable and that is accessory to a single detached dwelling constructed on the same lot and is considered an apartment dwelling unit for the purposes of this by-law.

Dwelling, Large Apartment: means an apartment dwelling containing 69.675 square metres of residential floor area or more;

Dwelling, Linked: means a building separated vertically into two separate dwelling units, connected underground by footing and foundation, the horizontal distance between the interior walls of the two (2) dwelling units above finished grade shall be in accordance with the provisions of the Municipality's Zoning By-law, each of which has an independent entrance directly from the outside of the building and each of which is located on a separate lot;

Dwelling, Low Density Multiple Unit: means all residential dwelling units that are not included in the definition of "apartment", "linked dwelling", "semi-detached dwelling" or "single detached dwelling";

Dwelling, Mobile Home: means a dwelling unit which is designed and constructed to be transported on its own chassis and is placed on a foundation;

Dwelling, Multiple: means a residential building or the residential portion of a mixed-use building which contains one or more dwelling units;

Dwelling, Semi-Detached: means a residential building divided vertically so as to contain only two separate dwelling units each of which has an independent entrance directly from outside of the building, is located on separate lots, at least 50 per cent of the above-grade area of a main wall on one side of each dwelling unit is attached to or is the same as a main wall on one side of the other dwelling unit, building is not attached to any other building or structure except its own garage or shed and the building has open space on all sides of it;

Dwelling, Single-Detached: means a residential building containing only one dwelling unit which is not attached to any other building or structure except its own garage or shed, has open space on all sides, and has no dwelling units either above it or below it, and the term "single-detached dwelling" includes a mobile home;

Dwelling, Small Apartment: means an apartment containing less than 69.675 square metres of residential floor area;

Dwelling, Townhouse: means a group of three or more attached dwelling units which are separated from the other dwelling unit vertically and/or horizontally and each dwelling unit having a separate entrance to grade;

Existing Industrial Building: means a building used for or in connection with,

- a. manufacturing, producing, processing, storing or distributing something;

- b. research or development in connection with manufacturing, producing or processing something;
- c. retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place;
- d. office or administrative purposes, if they are:
 - i) accessory to manufacturing, producing, processing, storage or distributing of something, and
 - ii) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution.

Farm Building: means a farm building as defined in the Building Code Act;

Floor: includes a paved, concrete, wooden, gravel, or dirt floor;

Grade: means the average level of the proposed finished surface of the ground immediately abutting each building or mixed-use building at all exterior walls of the building or mixed-used building in question;

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.

Hotel: means a building providing overnight accommodation with a minimum of 70 overnight accommodation rooms which each such room shall include a bedroom and a bathroom combination and minimal kitchen facilities, which is not a dwelling unit or dwelling units contained in a single-detached dwelling, a semi-detached dwelling, a townhouse (row house) dwelling or a multiple dwelling and which have a common entrance from street level, common halls, stairs, elevators and that is three stories or greater in height. Convention meeting space facilities that are constructed within the hotel building, on the same lot as the hotel or an abutting lot, are deemed to be part of the hotel.

Intensification: means areas such as urban growth centres, intensification corridors, and other opportunities that may include infill, redevelopment, brownfield sites, the expansion or conversion of existing buildings.

Industrial: means any building located on lands having an industrial zone by a Zoning By-law of the Municipality of Clarington and used for or in connection with:

- a. manufacturing, assembling, processing, fabricating, refining;
- b. research and development, storage of materials and products, truck terminals, warehousing, and buildings and structures or portions thereof which are designed, used or intended to be used for a purpose, but the term does not include:
 - i) retail service sales or rental areas, storage or warehousing areas or uses used, designed or intended to be used in connection with retail sales, service or rental areas, and
 - ii) office areas that are not accessory to any of the foregoing areas or uses, or to any other non-residential areas or uses, or

accessory office uses that are greater than 25% of the gross floor area of the industrial building.

Land for Parks": for the purposes of paragraph 3 of subsection 2(4) of the Act:

- a. includes land for woodlots and land that is acquired because it is environmentally sensitive, and
- b. does not include land for an enclosed structure used throughout the year for public recreation and land that is necessary for the structure to be used for that purpose, including parking and access to the structure;

Land: includes buildings and structures;

Local Board: means a public utility commission, transportation commission, public library board, board of park management, local board of health, police services board, 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 of the Municipality or the Region;

Lot: means a parcel of land within a registered plan of subdivision or any land that may be legally conveyed under the exemption provided in clauses 50(3)(b) or 50(5)(a) of the Planning Act;

Major Office Building: means a building containing business administrative and or professional offices and associated ancillary services containing a minimum of 5 000 square metres of gross floor area.

Mezzanine: means a mezzanine as defined in the Building Code Act;

Mixed-Use Building: means a building used, designed, or intended to be used either for use for a combination of non-residential and residential areas and uses, or for a combination of different classes or types of non-residential areas and uses;

Municipality: means The Corporation of the Municipality of Clarington;

Non-Residential: means buildings or portions of mixed-use buildings containing floors or portions of floors contained therein which are used, designed or intended to be used for a purpose which is not a residential purpose;

Owner: means the owner of land or a person who has made application for an approval for the development of land against which a development charge is imposed;

Protracted: means in relation to a temporary building or structure the persistence of its construction, erection, placement on land, or an alteration to or an addition to a building for a continuous period exceeding twelve months from the date on which the construction, erection or placement of the temporary building or structure was completed;

Region: means The Regional Municipality of Durham;

Residential: means buildings or portions of mixed-use buildings and floors or portions of floors contained therein which are used, designed, or intended to be used as living accommodation for one or more individuals provided in a dwelling unit(s) and an accessory building to the dwelling;

Residential Floor Area: means the floor area of an apartment measured either between the exterior faces of the exterior walls of the apartment, or between the exterior faces of one or more of the exterior walls of the apartment and one or more of the centre line(s) of the wall(s) separating the apartment in question from an abutting apartment and the exterior face(s) of the wall(s) separating the apartment in question from an adjacent corridor, elevator, lobby, or stair, whether or not any such walls contain one or more entrances to the apartment, provided that where the apartment dwelling in which the apartment is located is attached to another building by a party or common wall the centre line of such wall shall be deemed to be an exterior face of an exterior wall of the apartment dwelling in question;

Service: means a service designated as such by subsection 6(2) of this By-law;

Temporary Building: means a building constructed or erected or placed on land used exclusively by a realtor, builder, developer or contractor on a temporary basis for the sale, display and marketing of residential lots and dwellings within a draft approved subdivision or condominium plan, or means a building constructed or erected or placed on land for a continuous period not exceeding twelve months, or an addition or alteration to a building or structure that has the effect of increasing the total floor area thereof for a continuous period not exceeding twelve months.

Total Floor Area: in the case of buildings other than mixed-use buildings, means the sum total of the total areas of the non-residential floors contained in the building that are not exempt from development charges imposed by this By-law, whether at, above, or below grade, measured between the exterior faces of the exterior walls of the building. In the case of mixed-use buildings that contain a combination of residential, and/or non-residential areas or uses that are not exempt from development charges imposed by this By-law, "total floor area" means the sum total of each of total areas of the non-residential floors, or the sum total of the non-residential portions of the floors contained in the mixed-use building that are not exempt from development charges imposed by this By-law, whether at, above or below grade, and (1) where the total area of the floor is comprised of non-residential areas or uses that are not exempt from development charges, total floor area shall be measured between the exterior faces of the exterior walls of the mixed-use building, and (2) where one or more portions of a floor of the mixed-use building comprise non-residential areas or uses that are not exempt from development charges and another portion(s) of the same floor that either is a residential area or use, or is a non-residential area or use which is not exempt from development charges imposed by this By-law, total floor area shall be measured either between the exterior face(s) of the exterior wall(s) and/or between the centre lines of interior walls which separate the non-residential area(s) and use(s) from one or more residential area(s) and use(s) or non-residential areas or uses that are so exempt on the same floor. In the case of mixed-use building that contain (a) a combination of residential areas or uses, and non-residential areas or uses some only of which are exempt from development charges imposed by this By-law, or (b) only a combination of classes or types of non-residential areas or uses, some only of which are exempt from development charges imposed by this By-law, "total floor area" means the sum total of each of the total areas of the portions of the non-residential floors that are not exempt from development charges imposed by this By-law, contained in the mixed-use building whether at, above or below grade, and (1) where the total area of the floor is non-residential which is not exempt from development charges imposed by this By-law, total floor area shall be measured between the exterior faces of the exterior walls of the mixed-use building, and (2) where the total area of one or more portion(s) of a floor(s) of the mixed-

use building is a non-residential area(s) or use(s) which is not exempt from development charges imposed by this By-law and the same floor also contains another portion(s) of a floor(s) which is exempt from development charges imposed by this By-law, total floor area shall be measured between the exterior face(s) of the exterior wall(s) and/or the centre line(s) of interior walls which separate the non-residential area(s) and use(s) on the floor that are exempt from development charges from those on the same floor that are not exempt from development charges imposed by this By-law. In all cases in which the building or mixed-use building is attached to another building or mixed-use building, the centre line of the party or common wall shall be deemed to be an exterior wall of each building or mixed-use building as the case may be. Where a building does not have any walls, "total floor area" means the sum total of the area of land below the roof of the building and the total areas of the floors in the building, except where the canopies or roof overhand is for weather protection only for employees or customers and does not have any retail activity or storage for retail purposes. Except as otherwise provided in this definition, in all cases, "total floor area":

- a. includes the floor area of a mezzanine, an air-supported structure, interior corridors, lobbies and common areas, and the space occupied by interior wall partitions, and
- b. excludes any areas of the building or mixed-use building used for elevators, enclosed garbage storage areas, loading facilities, mechanical equipment related to the operation or the maintenance of the building or mixed-use building, parking of motor vehicles, retail gas pump canopies, stairwells, and any separately enclosed garbage storage area.

Zoning By-law: means the Municipality's By-law No. 84-63 and By-law No. 2005-109, as amended, as may be further amended or replaced from time to time.

- (2) In this By-law, unless the context otherwise requires, the singular includes the plural and the plural includes the singular.

Rules

2. (1) The rules developed under paragraph 9 of subsection 5(1) of the Act for determining if a development charge is payable in any particular case and for determining the amount of the development charges that are payable are set forth in sections 8 to 16, inclusive, and section 22 of this By-law.
- (2) The exemptions provided for are the exemptions set forth in sections 18 to 21, inclusive of this By-law; the indexing of charges shall be in accordance with section 15 of this By-law;
- (3) The rules for determining if a development charge credit is available shall be in accordance with the rules set forth in section 22 of this By-law;
- (4) The rules for determining refunds shall be in accordance with the rules set forth in Section 23 of this By-law.

Lands Affected by By-law

3. This By-law applies to all lands within the geographic area of the Municipality.

Designated Services

4. It is hereby declared by Council that the development of land for residential buildings, non-residential buildings and mixed-use buildings in the Municipality will increase the need for services.
5. The development charges imposed by section 7 of this By-law shall apply without regard to the services which in fact are required or are used by or in respect of a particular development of land.
6.
 - (1) Except where otherwise provided, development charges are imposed against land by this By-law to pay for increased capital costs required because of increased needs for services arising from the development of land within the Municipality.
 - (2) The following are designated services for the purpose of this By-law:
 - a. General Government;
 - b. Library Services;
 - c. Emergency Services;
 - d. Indoor Recreation;
 - e. Park Development and Related Facilities;
 - f. Operations (Buildings, Equipment and Fleet);
 - g. Parking;
 - h. Roads and Related; and
 - i. Storm Water Drainage and Control Services.
 - (3) The allocations of the residential development charges and the non-residential development charges imposed by this By-law, to the designated services referred to in subsection 6(2) are set out in Schedules "3" and "4", respectively, hereto.

Imposition of Development Charges

7. Except as otherwise provided in this By-law, development charges are imposed against land if the development of the land requires any one or more of the following actions or decisions:
 - (1) The passing of a zoning by-law or of an amendment thereto under section 34 of the Planning Act;
 - (2) The approval of a minor variance under section 45 of the Planning Act;
 - (3) A conveyance of land to which a by-law passed under subsection 50(7) of the Planning Act applies;
 - (4) The approval of a plan of subdivision under section 51 of the Planning Act;
 - (5) A consent under section 53 of the Planning Act;
 - (6) The approval of a description under section 50 of the Condominium Act; or

- (7) The issuing of a permit under the Building Code Act, 1992 in relation to a building.
8. Not more than one development charge for each of the services set out in subsection 6(2) is imposed by this By-law upon the development of land whether or not two or more of the actions or decisions referred to in section 7 are required before the land in question can be developed.
9. Notwithstanding section 8 of this By-law, if two or more of the actions or decisions referred to in section 7 occur at different times, additional development charges shall be imposed in respect of any increase in or additional development permitted by that action or decision or by those actions or decisions.
10. Where the development of land requires an action or decision referred to in section 7 of this By-law to be taken or made after the issuance of a building permit and no development charges have been paid, then development charges shall be paid prior to the action or the decision referred to in section 7 being taken or being made.
11. If the development of land is such that it does not require that a building permit be issued before the development is commenced, but the development does require one or more of the other actions or decisions referred to in section 7 be taken or made before the development is commenced, development charges shall be payable in respect of any increase in or additional development permitted by such action or decision prior to the action or decision required for the increased or additional development in question being taken or being made.
12. (1) Nothing in this By-law shall prevent the Municipality or an approval authority from requiring, as a condition of an agreement under sections 51 or 53 of the Planning Act, that the owner of land, at his or her own expense, install such local services related to a plan of subdivision or within the area to which the plan relates, as the approval authority may require, or that the owner pay for local connections to storm drainage facilities installed at the owner's expense, or administrative, processing, or inspection fees.

(2) Without derogating from subsection 12 (1), nothing in this By-law shall prevent the Municipality or an approval authority from requiring as a condition of any approval given under the Planning Act that the owner, at the owner's expense, shall install such services as may be determined by the Municipality or the approval authority in accordance with the applicable law.

Basis of Calculation of Development Charges

13. Subject to section 16 the development charges imposed by this By-law shall be calculated as follows:
 - (1) In the cases of residential buildings, and the residential portions of mixed-use buildings, on the basis of the number and type of dwelling units contained in them;
 - (2) In the cases of non-residential buildings and the non-residential portion of mixed-use buildings, on the basis of the total floor area contained in the non-residential building or in the non-residential portion of the mixed-use building proposed to be developed for non-residential purposes.

Amount of Development Charges

14. (1) The amount of the development charges payable in respect of the development of apartment dwellings, linked dwellings, multiple dwellings, semi-detached dwellings, single-detached dwellings, and townhouse dwellings and in respect of the development of the residential areas of

mixed-use buildings shall be as set out and shall be determined in accordance with subsection 16(1) of this By-law and Schedule "1" hereto.

- (2) The amount of the development charges payable in respect of development of non-residential buildings, and in respect of the development of the non-residential components of mixed-use buildings, shall be as set out and shall be determined in accordance with subsection 16(2) of this By-law and Schedule "2" hereto.

Indexing of Development Charges

15. The development charges set out in Schedules "1" and "2" hereto shall be adjusted without amendment to this By-law annually on January 1st in each year, commencing on January 1st, 2011, in accordance with the Statistics Canada Quarterly, Construction Price Statistics (catalogue number 62-007) based on the 12 month period most recently available.

Timing of Calculation and Payment

16. (1) The residential development charges set out in Schedule "1" hereto are payable in full on the effective date of this by-law.
- (2) The non-residential development charges set out in Schedule "2" are payable in full commencing on the effective date of this by-law.
- (3) Subject to subsections 16(1) and 16(2), and except as provided in section 22 of this By-law, development charges shall be calculated as of, and shall be payable on the date the first building permit is issued for the development of the land against which the development charges imposed by this By-law apply.

Payment by Money

17. Payment of development charges shall be by cash or by certified cheque.

Rules with Respect to Exemptions for Existing Residential

18. This By-law does not apply to impose development charges if the only effect of any action or decision referred to in section 7 is:
 - (1) An interior alteration to an existing residential building or structure which does not change or intensify the use of the land;
 - (2) The enlargement of an existing residential dwelling unit;
 - (3) The creation of one or two additional residential dwelling units in an existing single detached dwelling where the total gross floor area of the additional unit(s) does not exceed the gross floor area of the existing dwelling unit;
 - (4) The creation of one additional dwelling unit in a semi-detached dwelling or row dwelling where the total gross floor area of the additional unit does not exceed the gross floor area of the existing dwelling unit; or
 - (5) 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.

Rule With Respect to the Exemption of Agricultural Development

19. Agricultural development of land including agri-tourism is exempt from development charges imposed by this By-law.

Rules With Respect to the Exemption of Certain Public and Other Buildings

20. Buildings within any of the following categories of areas or uses are hereby exempted from development charges imposed by this By-law:
- (1) Buildings owned by and used, designed or intended for use as hospitals governed by the Public Hospitals Act, R.S.O. 1990, c.P.40, as amended or replaced from time to time;
 - (2) Buildings owned by and used, designed or intended for use for the purposes of the Municipality, the Region, or their local boards;
 - (3) Buildings owned by and used, designed or intended for use as a place of worship;
 - (4) Buildings owned by a board of education and used, designed or intended for use for school purposes including the administration or the servicing of schools;
 - (5) Buildings owned by, or where a long term lease of 20 years or longer has been entered into, and used, designed or intended for use for the purposes of a college of applied arts and technology established pursuant to the Ministry of Colleges and Universities Act, R.S.O. 1990, c.M.19, as amended or replaced from time to time;
 - (6) Buildings owned by, or where a long term lease of 20 years or longer has been entered into, and used, designed and intended for use for the purposes of a university established by an Act of the Legislative Assembly of Ontario;
 - (7) Buildings or parts thereof located either in the Clarington Science Park or the Clarington Energy Park as shown on the plans contained in Schedule '6' hereto, that are used, designed or intended to be used for the purpose of research facilities, laboratories, offices, amenity areas and service areas for staff who conduct research, with evidence provided to the satisfaction of the Director of Finance/Treasurer;
 - (8) Buildings owned by a corporation or organization registered as a charity for the purposes of the Income Tax Act R.S.C. 1985, Chapter 1 (5th Supp.) as it may be amended or replaced from time to time, and used, designed, or intended for use for any residential or for any non-residential purpose of the not-for-profit corporation or organization in question;
 - (9) The gross floor area of the conversion where, as a result of development of land located in a 'revitalization area' as shown on the map contained in Schedule '5' hereto, a building is converted in whole or in part to a different use; and
 - (10) Buildings constructed after July 1, 2006 for the purpose of a hotel.
 - (11) Intensification projects must be located within Town/Village Centres of the Municipality of Clarington Illustrated in the Land Use maps A2, A3, A4, A5 for the Urban Areas of Courtice, Bowmanville, Newcastle, and Orono of the Clarington Official Plan. To be eligible for a partial exemption, projects must meet the land use, urban design, and compatibility policies of the Clarington Official Plan and applicable Zoning By-law in addition to the regulations set out within this by-law.
 - a) An exemption equal to twenty five percent of the applicable development charges otherwise payable on the third story at the time the building permit was issued for residential and or office intensification buildings that are a minimum of three stories.

- b) An exemption equal to fifty percent, seventy-five and one hundred percent of the applicable development charges otherwise payable at the time the building permit was issued for residential and or office intensification buildings for the fourth, fifth and sixth (and higher) floors respectively.
- c) An exemption equal to twenty five percent of the applicable development charges otherwise payable at the time the building permit was issued for non-office commercial floor space within any intensification building outlined in 20 (11) a. or 20 (11) b.

Rules with Respect to the Exemption of Temporary Buildings

21. (1) Temporary buildings are exempt from the development charges imposed by this By-law.
- (2) In the event that a temporary building becomes protracted, it shall be deemed not to be, or ever to have been a temporary building, and the development charges required to be paid by this By-law shall become payable on the date on which the temporary building becomes protracted.
- (3) Prior to an action or decision referred to in section 7 of this By-law being taken or being made in respect of the development of a temporary building, the Municipality, pursuant to section 27 of the Act, may require an owner to enter into an agreement which may include the provision of security for the owner's obligation under the agreement and which agreement shall provide for all or part of the development charges to be paid after the date on which they would otherwise be payable under subsections 16(1) or 16(2) of this By-law, whichever is applicable. The terms of such agreement shall prevail over the provisions of subsections 16(1), 16(2) and 16(3) of this By-law.

Rules with Respect to Credits

22. (1) Where, as a result of the redevelopment of land, a building or existing structure is to be converted to another use, in whole or in part, or converted from one principal use to another principal use on the same land or such building or structure is destroyed in whole or in part by fire, explosion or Act of God or is demolished and reconstructed for the same purpose for which it was put before it was destroyed, the development charges otherwise payable with respect to such redevelopment or reconstruction shall be reduced by the following amounts:
- a. in the case of a residential building or the residential portion of a mixed-use building or structure, an amount calculated by multiplying the applicable development charges under the Schedule 1 of this By-law by the number, according to type of dwelling units that have been demolished or converted to another principal use or demolished and reconstructed as the case may be; and
 - b. in the case of a non-residential building or the non-residential portion of a mixed-use building or structure, an amount calculated by multiplying the applicable development charges under Schedule 2 of this By-law by the non-residential gross floor area that has been demolished or converted to another principal use or demolished and reconstructed as the case may be.
- (2) A credit in respect of an event referred to in subsection 22(1) shall not be given unless within five years from the date on which the event occurred, a building permit has been issued.

- (3) The amount of any credit under subsection 22(1) shall not exceed in total the amount of the development charges otherwise payable with respect to the redevelopment of the land or reconstruction of the building or structure as the case may be.
- (4) Notwithstanding subsection 22(1) no credit will be provided when:
 - a. the demolished building or structure or part thereof would have been exempt under this by-law;
 - b. where the building or structure or part thereof would have been exempt under this By-law prior to the conversion, redevelopment or reconstruction as the case may be;
 - c. where a development or redevelopment which is exempt in whole or in part or eligible for any other relief under this By-law.
- (5) Where a development charge is payable for a development or redevelopment of brownfield lands, with the exception of development or redevelopment of brownfield lands for the purpose of a gasoline service station, which requires the clean up of lands under the Ontario Ministry of the Environment's "Guideline for Use at Contaminated Sites in Ontario" as amended or replaced from time to time, an amount will be credited against the development charge otherwise payable equal to the amount of the actual costs of assessment and clean up of the property, approved by the Municipality, but the credited amount shall not exceed the total development charge payable hereunder. To obtain the development charge credit a Record of Site Condition certifying that an assessment of the property has been done and it conforms to an appropriate standard for the intended use must have been issued by the Ministry of the Environment.

Rules Respecting Refunds

23. (1) An amount equal to the development charge that has been paid by the owner of a building that has been relocated as a result of land requirements by the municipal, provincial or federal governments to another property and designated with that property under the Ontario Heritage Act shall be paid to the owner after application is made to the Director of Finance/Treasurer for a refund and upon presentation of proof to the satisfaction of the Director that the building has been so designated; however, no refund or credit shall be provided on the original site of the building in question.
- (2) An amount equal to the development charge that has been paid by the owner of a building that has been relocated to another property and designated with that property under the Ontario Heritage Act shall be paid to the owner after application is made to the Director of Finance/Treasurer for a refund and upon presentation of proof to the satisfaction of the Director that the building has been so designated; however no refund or credit shall be provided on the original site of the building in question.
- (3) An amount equal to the applicable development charge paid at the time the building permit was issued for a dwelling unit provided that the existing dwelling unit is demolished within 6 months or such longer period as may be permitted by Council following the date of issuance of the building permit for the new dwelling unit.
- (4) An amount equal to the applicable development charge paid at the time the building permit was issued if the building permit was cancelled prior to the commencement of the construction of the building or structure in question.

- (5) An amount equal to fifty percent of the applicable development charge paid at the time the building permit was issued for major office buildings on lands identified in Schedule 6A and Schedule 6B and industrial development in the Municipality which is certified and registered with the LEED Canada Green Building Rating Systems (or its successor).
- (6) Intensification projects must be located within Town/Village Centres of the Municipality of Clarington Illustrated in the Land Use maps A2, A3, A4, A5 for the Urban Areas of Courtice, Bowmanville, Newcastle, and Orono of the Clarington Official Plan. To be eligible for a refund, projects must meet the land use, urban design, and compatibility policies of the Clarington Official Plan and applicable Zoning By-law in addition to the regulations set out within this by-law.
 - a) An amount equal to fifty percent of the applicable development charges paid at the time the building permit was issued for commercial buildings located in intensification areas when these projects achieve a minimum Gold certification by the GBCG under the LEED Canada Green Building Rating Systems.
- (7) An amount equal to the applicable development charge paid at the time the building permit was issued for professional offices and ancillary facilities designed to be occupied primarily by medical practitioners licensed by the College of Physicians and Surgeons of Ontario upon presentation of proof to the satisfaction of the Director of Finance/Treasurer that the building or portions thereof have in fact been occupied by such practitioners.

Interest

24. The Municipality shall pay interest on a refund under subsections 18(2), 18(3) and 25(2) of the Act at a rate equal to the Bank of Canada rate on the date this By-law comes into force updated on the first business day of every January, April, July and October until the date of the repeal or the expiry of this By-law.

Front-Ending Agreements

25. The Municipality may enter into front-ending agreements under section 44 of the Act.

Schedules

26. Schedule 1 – Residential Development Charges, Schedule 2 - Non-Residential Development Charges, Schedule 3 – Allocation of Residential Development Charges, Schedule 4 – Allocation of Non-Residential Development Charges, Schedule 5A – Revitalization Area – Newcastle Village, Schedule 5B – Revitalization Area – Orono, Schedule 5C – Revitalization Area – Bowmanville, Schedule 6A – Clarington Energy Business Park and 6B – Clarington Science and Technology Park are attached to and form part of this By-law.

Date By-law Effective

27. This By-law comes into force and is effective on July 1, 2010.

Date By-law Expires

28. This By-law expires five years after the day on which it comes into force.

Repeal of By-law No.2005-108

29. By-law No. 2005-108 as amended by By-law Nos. 2006-160, 2007-195 and 2008-104, is repealed effective July 1, 2010.

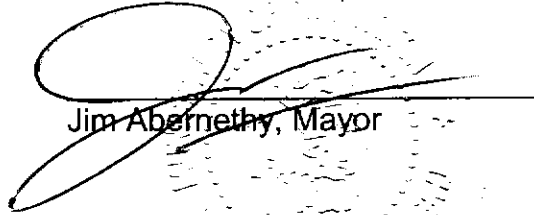
Headings for Reference Only

30. The headings inserted in this By-law are for convenience of reference only and shall not affect the construction or interpretation of this By-law.

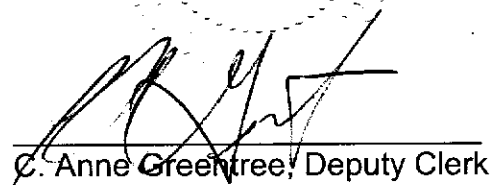
Severability

31. If, for any reason, any provision, section, subsection or paragraph of this By-law is held 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, reenacted or amended, in whole or in part or dealt with in any other way.

This by-law read a first, second, and third time, and passed in open council this 31st day of May, 2010.



Jim Abernethy, Mayor



C. Anne Greentree, Deputy Clerk

SCHEDULE "1"

RESIDENTIAL DEVELOPMENT CHARGES

SCHEDULE "1" TO BY -LAW NO. 2010-058		
THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON		
RESIDENTIAL DEVELOPMENT CHARGES PER UNIT		
	July 1, 2010	January 1, 2011
Single and Semi-Detached, or Link	\$14,143	\$14,500
Low Density Multiple	\$12,329	\$12,630
Apartments		
Large	\$ 9,700	\$ 9,963
Small	\$ 6,152	\$ 6,316

SCHEDULE "2"

NON-RESIDENTIAL DEVELOPMENT CHARGES

SCHEDULE "2" TO BY -LAW NO. 2010-058		
THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON		
NON-RESIDENTIAL DEVELOPMENT CHARGES PER		
SQUARE METRE OF GROSS FLOOR AREA		
	July 1, 2010	July 1, 2011
Non-Residential (excluding Industrial)	\$55.20	\$59.44
Industrial	\$30.24	\$30.24

SCHEDULE "3"
THE CORPORATION OF THE MUNICIPALITY OF
CLARINGTON

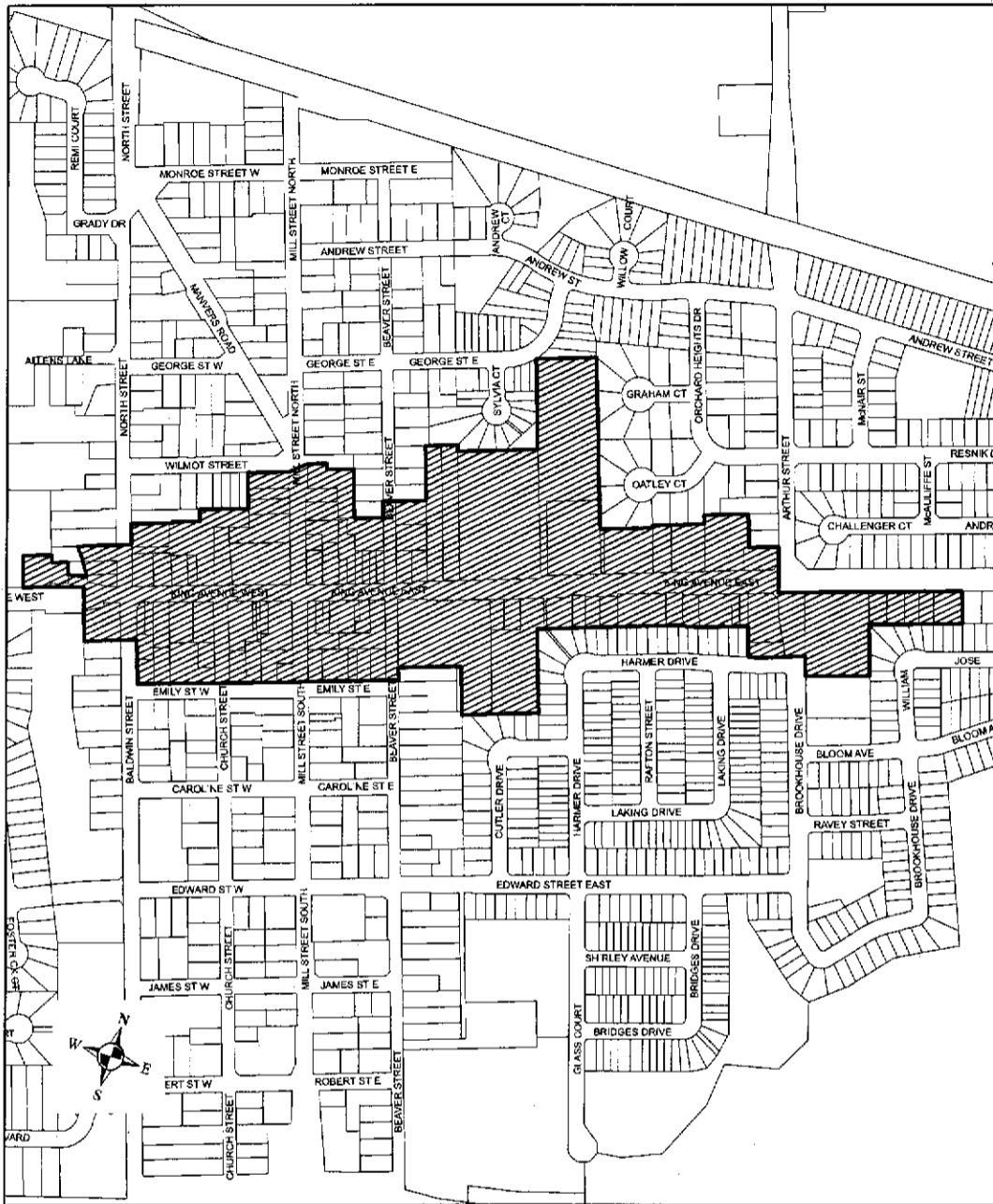
BY-LAW NO. 2010-058

ALLOCATION OF RESIDENTIAL DEVELOPMENT
CHARGES

	% Allocation
General Government	1.86%
Library Services	5.81%
Fire Protection Services	4.44%
Indoor Recreation	36.30%
Park Development and Related Facilities	7.68%
Operations (Buildings, Equipment & Fleet)	4.41%
Parking	0.39%
Roads & Related	39.11%
Total Development Charge	100%

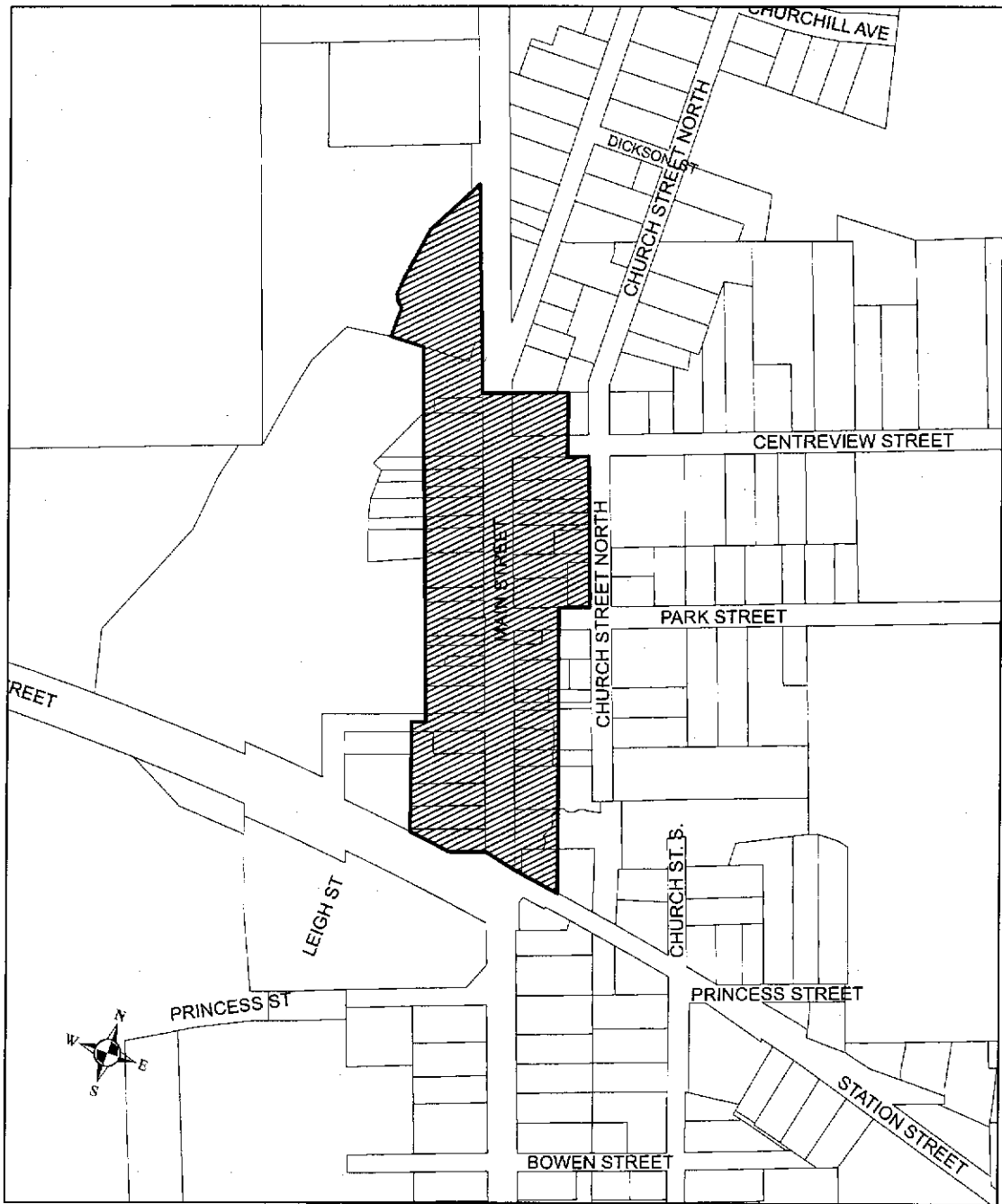
SCHEDULE "4"		
THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON		
BY-LAW NO. 2010-058		
ALLOCATION OF NON-RESIDENTIAL DEVELOPMENT CHARGES		
	% Allocation	
	Non-Residential (excluding Industrial)	Industrial
General Government	2.59%	5.09%
Library Services	0%	0%
Fire Protection Services	6.19%	12.17%
Indoor Recreation	0%	0%
Park Development and Related Facilities	0%	0%
Operations (Buildings, Equipment & Fleet)	6.12%	12.04%
Parking	0.56%	1.09%
Roads & Related	84.54%	69.61%
Total Development Charge	100%	100%

Schedule "5A" to Development Charges By-law 2010-058



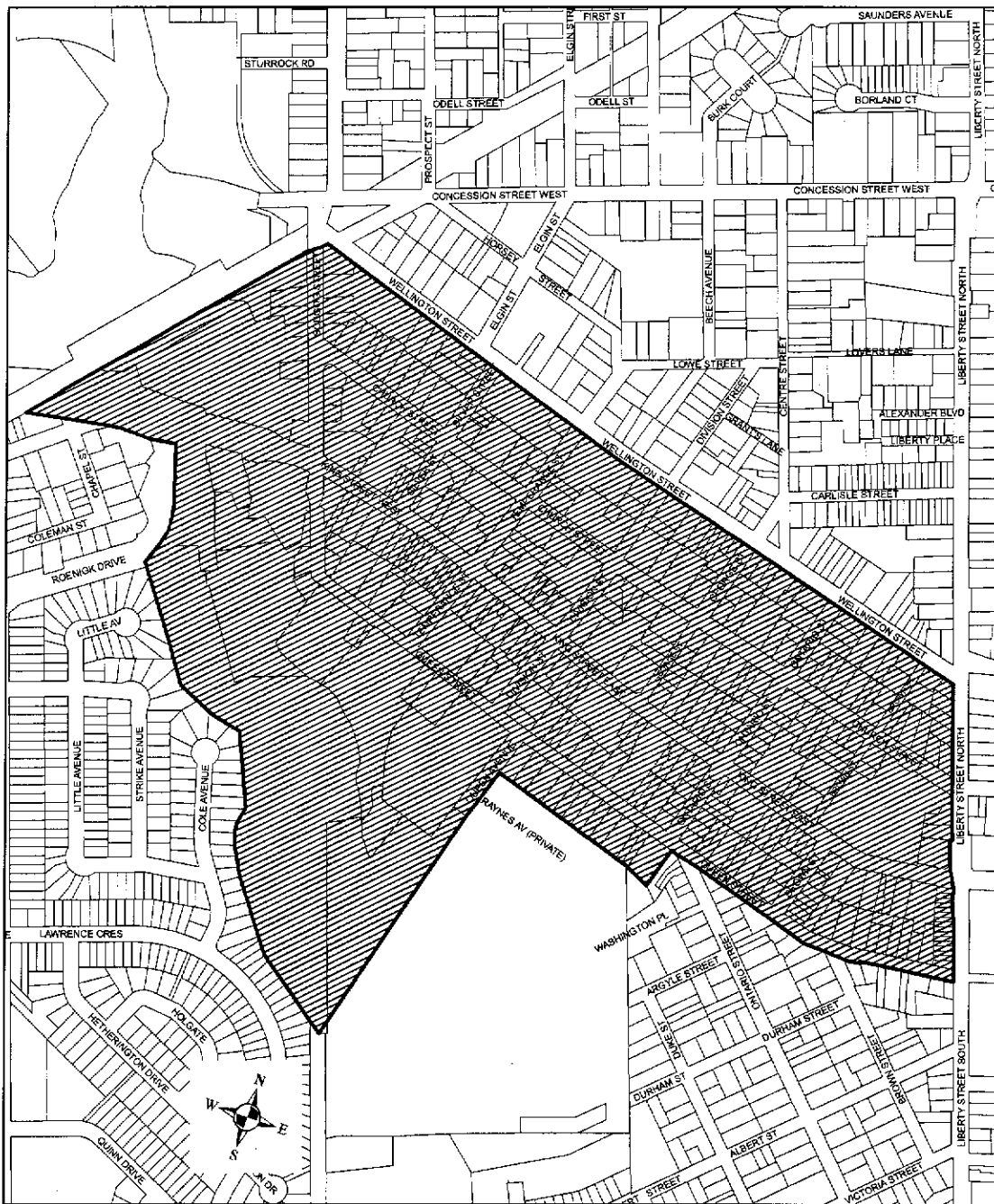
Revitalization Area - Newcastle Village

Schedule "5B" to Development Charges By-law 2010-058



Revitalization Area - Orono

Schedule "5C" to Development Charges By-law 2010-058



Revitalization Area - Bowmanville

Schedule "6A" to Development Charges By-law 2010-058



Clarington Energy Business Park

Schedule "6B" to Development Charges By-law 2010-058



Clarington Science and Technology Park