

**THE CORPORATION OF THE TOWNSHIP OF MALAHIDE**  
**BY-LAW NUMBER 14-68**

**A BY-LAW TO ESTABLISH DEVELOPMENT CHARGES**  
**FOR THE CORPORATION OF THE TOWNSHIP OF MALAHIDE**

WHEREAS subsection 2(1) of the *Development Charges Act, 1997 c. 27* (hereinafter called "the Act") provides that the council of a municipality may pass By-laws for the imposition of development charges against land for increased capital costs required because of the need for services arising from development in the area to which the by-law applies;

AND WHEREAS the Council of The Corporation of the Township of Malahide has given Notice on July 16, 2014 according to section 12 of the *Development Charges Act, 1997*, of its intention to pass a by-law under Section 2 of the said Act;

AND WHEREAS the Council of the Township of Malahide has heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charge proposal at a public meeting held on August 7, 2014;

AND WHEREAS the Council of the Township of Malahide had before it a report entitled Development Charge Background Study dated July 24, 2014 prepared by Watson & Associates Economists Ltd., wherein it is indicated that the development of any land within the Township of Malahide will increase the need for services as defined herein;

AND WHEREAS the Council of the Township of Malahide on August 21, 2014 approved the applicable Development Charge Background Study, as amended (if applicable) inclusive of the capital forecast therein, in which certain recommendations were made relating to the establishment of a development charge policy for the Township of Malahide pursuant to the *Development Charges Act, 1997*;

AND WHEREAS the Council of the Township of Malahide on August 21, 2014 determined that no additional public meeting was required to be held as part of the approval process.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF MALAHIDE ENACTS AS FOLLOWS:**

**1. DEFINITIONS**

In this by-law,

1. "Act" means the *Development Charges Act, 1997, c. 27*;
2. "administration service" means any and all development-related studies carried out by the municipality which are with respect to eligible services for which a development charge by-law may be imposed under the *Development Charges Act, 1997*.
3. "accessory use" means where used to describe a use, building, or structure that the use, building or structure is naturally and normally incidental, subordinate in purpose of floor area or both, and exclusively devoted to a principal use, building or structure;
4. "agricultural use" means a bona fide farming operation;
5. "apartment unit" means any residential unit within a building containing three or more dwelling units where access to each residential unit is obtained through a common entrance or entrances from the street level and the residential units are connected by an interior corridor;
6. "attached dwelling" means a dwelling in a residential building which contains two or more dwelling units, which dwelling units have one or two vertical walls, but no other parts, attached to other dwelling units;
7. "bedroom" means a habitable room larger than seven square metres, including a den, study, or other similar area, but does not include a living room, dining room or kitchen;
8. "benefiting area" means an area defined by map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;
9. "board of education" means a board defined in s.s. 1(1) of the *Education Act*;
10. "bona fide farm uses" means the proposed development will qualify as a farm business operating with a valid Farm Business Registration Number issued by the Ontario Ministry of Agriculture, Food and Rural Affairs and be assessed in the Farmland Realty Tax Class by the Ontario Property Assessment Corporation;
11. "Building Code Act" means the *Building Code Act, 1992, S.O. 1992, c.23, as amended*;

12. "capital cost" means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or by others on behalf of, and as authorized by, the municipality or local board,

- (a) to acquire land or an interest in land, including a leasehold interest;
- (b) to improve land;
- (c) to acquire, lease, construct or improve buildings and structures;
- (d) to acquire, lease, construct or improve facilities including,
  - (i) rolling stock with an estimated useful life of seven years or more,
  - (ii) furniture and equipment, other than computer equipment, and
  - (iii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, R. O. 1990, c. 57, and
- (e) to undertake studies in connection with any of the matters referred to in clauses (a) to (d);
- (f) to complete the development charge background study under Section 10 of the Act;
- (g) interest on money borrowed to pay for costs in (a) to (d);

required for provision of services designated in this by-law within or outside the municipality.

13. "commercial" means any use of land, structures or buildings for the purposes of buying or selling commodities and services, but does not include industrial or agricultural uses, but does include hotels, motels, motor inns and boarding, lodging and rooming houses;

14. "Corporations" means the Corporation of the Township of Malahide;

15. "Council" means the Council of the Township of Malahide;

16. "developer" means a person who undertakes development or redevelopment;

17. "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 the effect of increasing the size of usability thereof, and includes redevelopment;
18. "development charge" means a charge imposed pursuant to this By-law with respect to growth related net capital cost;
19. "dwelling unit" means any part of a building or structure used, designed or intended to be used as a domestic establishment in which one or more persons may sleep and are provided with culinary and sanitary facilities for their exclusive use;
20. "exemption" means that no development charge is payable;
21. "existing" means the number, use and size that existed as of the date this by-law was passed;
22. "farm building" means that part of a bona fide farming operation that is located upon land which is assessed and used for farm purposes encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use;
23. "floor" does not include a storey;
24. "floor above ground level" means any floor, the entire area of which is located below the lowest level at which the land upon which the building or structure stands abuts any land;
25. "floor below ground level" means any floor the entire area of which is located below the lowest level at which the land upon which the building or structure stands abuts any land;
26. "Grade" means the average level of finished ground adjoining a building or structure at all exterior walls;
27. "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 a day basis on site by agency staff on a shift rotation basis, funded wholly or in part by any government and licensed, approved or supervised by the Province of Ontario under a general or special Act and amendments or replacements thereto, for the accommodation of not less than 3 and not more than 8 residents, exclusive of staff;
28. "gross floor area" means
  - a. in the case of a residential building or structure, the total area of all floors above grade of a dwelling unit measured between the outside surfaces of exterior walls or between

the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit from any other dwelling unit or other portion of a building; and

b. in the case of a non-residential building or structure, or in the case of a mixed-use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below grade measured between the outside surfaces of the exterior walls, or between the outside surfaces of exterior walls and the centre line of party walls dividing a non-residential use and a residential use, except for:

(i) a room or enclosed area within the building or structure above or below that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;

(ii) loading facilities above or below grade; and

(iii) a part of the building or structure below grade that is used for the parking of motor vehicles or for storage or other accessory use;

29. "industrial" means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;

30. "institutional" means land, buildings, structures or any part thereof used by any organization, group or association for promotion of charitable, educational or benevolent objectives and not for profit or gain;

31. "lawfully existing" means a building:

a. that is not prohibited by a by-law passed under Section 34 of the *Planning Act*, or a predecessor of that section; or

b. that is a legal non-conforming use; or

c. that is allowed by a minor variance authorized under Section 45 of the *Planning Act*, or a predecessor of that section;

32. "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 municipality or any part or parts thereof;

33. "local services" means those services, facilities or things which are under the jurisdiction of the Township of Malahide 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, as amended, or any successor thereof;
34. "multiple dwellings" means all dwellings other than single-detached, semi-detached and apartment unit dwellings;
35. "Municipality" means The Corporation of the Township of Malahide;
36. "Non-profit housing" means housing which is or is intended to be offered primarily to persons or families of low income on a leasehold or co-operative basis and which is owned or operated by i) a non-profit corporation being a corporation, no part of the income of which is payable to or otherwise available for the personal benefit of a member or shareholder thereof; or ii) a non-profit housing co-operative having the same meaning as in the *Co-operative Corporations Act*, R.S.O. 1990, c.C.35, as amended;
37. "non-residential use" means a building or structure of any kind whatsoever used, designed or intended to be used for other than a residential use;
38. "Official Plan" means the Official Plan adopted for the municipality, as amended and approved;
39. "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;
40. "place of worship" means that part of a building or structure that is exempt from taxation as a place of worship under the *Assessment Act*, R.S.O. 1990, Chap. A.31, as amended, or any successor thereof;
41. "Planning Act" means the *Planning Act, 1990*, R.S.O. 1990, c.P.13, as amended;
42. "rate" means the interest rate established weekly by the Bank of Canada based on Treasury Bills having a term of 91 days;
43. "regulation" means any regulation made pursuant to the Act;
44. "residential dwelling" 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;

45. "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;
46. "row dwelling" means a building containing three or more attached dwelling units in a single row, each of which dwelling units has an independent entrance from the outside and is vertically separated from any abutting dwelling unit;
47. "school, private" means a private school defined under the *Education Act* or any successor thereto, being "an institution at which instruction is provided at any time between the hours of 9 a.m. and 4 p.m. on any school day for five or more pupils who are of, or over compulsory school age in any of the subjects of the elementary or secondary school courses of study".
48. "semi-detached dwelling" means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but not other parts, attached or another dwelling unit where the residential unit are not connected by an interior corridor;
49. "service" means a service designed in Schedule "A" to this By-law, and "services" shall have a corresponding meaning;
50. "servicing agreement" means an agreement between a landowner and the Municipality relative to the provision of municipal services to specified land within the Municipality;
51. "single detached dwelling" means a completely detached building containing only one dwelling unit and not attached to another structure.
52. "Zoning By-Law" means the Zoning By-Law of the Municipality or any successor thereof passed pursuant to Section 34 of the Planning Act, S.O. 1998.

## **2. DESIGNATION OF SERVICES**

2.1 The categories of services for which development charges are imposed under this By-law are as follows:

- (a) Roads and Related Services;
- (b) Fire Protection Services;
- (c) Outdoor Recreation Services;
- (d) Indoor Recreation Services;
- (e) Library Services

(f) Administration;

2.2 The components of the services designated in section 2.1 are described in Schedule A.

### 3. APPLICATION OF BY-LAW RULES

3.1 Development charges shall be payable in the amounts set out in this By-law where:

- (a) the lands are located in the area described in section 3.2; and
- (b) the development of the lands requires any of the approvals set out in subsection 3.4(a).

#### Area to Which By-law Applies

3.2 Subject to section 3.3, this By-law applies to all lands in the Township of Malahide whether or not the land or use thereof is exempt from taxation under s. 3(1) or the *Assessment Act*.

3.3. Notwithstanding clause 3.2 above, this by-law shall not apply to lands that are owned by and used for the purposes of:

- (a) the Township of Malahide or a local board thereof;
- (b) a board of education; or
- (c) the Corporation of the County of Elgin or a local board thereof;

#### Approvals for Development

3.4 (a) Development charges shall be imposed on all lands, buildings or structures that are developed for residential or non-residential uses if the development requires:

- (i) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;
- (ii) the approval of a minor variance under section 45 of the *Planning Act*;
- (iii) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
- (iv) the approval of a plan of subdivision under section 51 of the *Planning Act*;
- (v) a consent under section 53 of the *Planning Act*;
- (vi) the approval of a description under section 50 of the *Condominium Act*, R.S.O. 1990, Chap. C.26, as amended, or any successor thereof; or
- (vii) the issuing of a permit under the *Building Code Act* in relation to a building or structure.



- (b) No more than one development charge for each service designated in subsection 2.1 shall be imposed upon any lands, buildings or structures to which this By-law applies even though two or more of the actions described in subsection 3.4(a) are required before the lands, buildings or structures can be developed.
- (c) Despite subsection 3.4(b), if two or more of the actions described in subsection 3.4(a) occur at different times, additional development charges shall be imposed if the subsequent action has the effect of increasing the need for services.

### Exemptions

- 3.5 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;
- 3.6 Notwithstanding section 3.5(b), 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.
- 3.7 Notwithstanding section 3.5, 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.*

### 3.8 Rules with Respect to an Industrial Expansion Exemption

If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charges that is payable in respect of the enlargement is determined in accordance with the following:

- (a) Subject to subsection 3.8 (c), if the gross floor area is enlarged by 50 per cent or less of the lesser of:
  - i. the gross floor area of the existing industrial building, or

- ii. the gross floor area of the existing industrial building before the first enlargement for which:
  - a. an exemption from the payment of development charges was granted, or
  - b. a lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid,

pursuant to Section 4 of the Act and this subsection, the amount of the development charge in respect of the enlargement is zero;

(b) Subject to subsection 3.8 (c), if the gross floor area is enlarged by more than 50 per cent or less of the lesser of:

- i. the gross floor area of the existing industrial building, or
- ii. the gross floor area of the existing industrial building before the first enlargement for which:
  - 1. an exemption from the payment of development charges was granted, or
  - 2. a lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid,

pursuant to Section 4 of the Act and this subsection,

the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:

- iii. determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the first enlargement, and
- iv. divide the amount determined under subsection (A) by the amount of the enlargement

(c) For the purposes of calculating the extent to which the gross floor area of an existing industrial building is enlarged in subsection 3.8 (b), the cumulative gross floor area of any previous enlargements for which:

- i. An exemption from the payment of development charges was granted, or
- ii. A lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid,

pursuant to Section 4 of the Act and this subsection,

shall be added to the calculation of the gross floor area of the proposed enlargement.

- (d) For the purposes of this subsection, the enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, canopy, shared below grade connection, such as a service tunnel, foundation, footing or parking facility.

3.9 For the purpose of section 3.8 herein, "existing industrial building" is used as defined in the Regulation made pursuant to the Act.

3.10 Other Exemptions:

Notwithstanding the provision of this by-law, development charges shall not be imposed with respect to:

- a) buildings or structures owned by and used for the purposes of a municipality and exempt from taxation under Section 3 of the Assessment Act, R.S.O. 1990, c.A.31, as amended;
- b) buildings or structures owned by and used for the purposes of a board as defined in Subsection 1(1) of the Education Act, R.S.O. 1990, c.E.2, as amended, and exempt from taxation under Section 3 of the Assessment Act, R.S.O. 1990, c.A.31, as amended;
- c) Non-residential farm buildings constructed for bona fide farm uses;
- d) Buildings which are exempt under the *Development Charges Act, 1997* or regulations made under the Act;

Amount of Charges

Residential

3.11 The development charges set out in Schedule B shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use building or structure, according to the type of residential unit, and calculated with respect to each of the services according to the type of residential use. In regards to Schedule B, the following percentage of each service for residential uses, as provided below, shall be imposed for the period of by-law:

Service	August 21, 2014 to August 20, 2015	August 21, 2015 to August 20, 2016	August 21, 2016 to August 20, 2017	August 21, 2017 to August 20, 2018	August 21, 2018 to August 20, 2019
<b>Municipal Wide Services:</b>					
Roads and Related	60%	62.5%	65%	67.5%	70%
Fire Protection Services	60%	62.5%	65%	67.5%	70%
Outdoor Recreation Services	60%	62.5%	65%	67.5%	70%
Indoor Recreation Services	60%	62.5%	65%	67.5%	70%
Library Services	60%	62.5%	65%	67.5%	70%
Administration	60%	62.5%	65%	67.5%	70%

Non-Residential

3.12 The development charges described in Schedule B to this by-law shall be imposed on non-residential uses of lands, buildings or structures, and, in the case of a mixed use building or structure, on the non-residential uses in the mixed use building or structure, and calculated with respect to each of the services according to the total floor area of the non-residential use. In regards to Schedule B, the following percentage of each service for non-residential uses, as provided below, shall be imposed for the period of by-law:

Service	August 21, 2014 to August 20, 2015	August 21, 2015 to August 20, 2016	August 21, 2016 to August 20, 2017	August 21, 2017 to August 20, 2018	August 21, 2018 to August 20, 2019
<b>Municipal Wide Services:</b>					
Roads and Related	60%	62.5%	65%	67.5%	70%
Fire Protection Services	60%	62.5%	65%	67.5%	70%
Outdoor Recreation Services	60%	62.5%	65%	67.5%	70%
Indoor Recreation Services	60%	62.5%	65%	67.5%	70%
Library Services	60%	62.5%	65%	67.5%	70%
Administration	60%	62.5%	65%	67.5%	70%

Reduction of Development Charges for Redevelopment

3.13 Despite any other provisions of this By-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within four years prior to the date of payment of development charges in regard to such redevelopment was, or is to be demolished, in whole

or in part, or converted from one principal use to another principal use on the same land, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by the following amounts:

- (a) in the case of a residential building or structure, or in the case of a mixed-use building or structure, the residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charge under subsection 3.11 by the number, according to type, of dwelling units that have been or will be demolished or converted to another principal use; and
- (b) in the case of a non-residential building or structure or, in the case of mixed-use building or structure, the non-residential uses in the mixed-use building or structure, an amount calculated by multiplying the greater of the applicable development charges under subsection 3.12 by the gross floor area that has been or will be demolished or converted to another principal use;

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

#### Demolition or Removal of Temporary Buildings

- 3.14 (a) Where a lawfully existing temporary building or structure is demolished or removed in its entirety from the land on which it is located within 2 years from the date of issuance of the building permit for the construction, erection or placing of the building or structure at such location, the owner of the building or structure may submit a request to the Treasurer, for payment from the Township Growth Reserve Funds of the amount paid at issuance of the building permit toward all or part of the development charge payable under this by-law.
- (b) A request by an owner for a refund of a development charges payment when approved shall be deemed to be a claim eligible for payment as of the time the request was received by the Treasurer for the purposes of this by-law.

#### Time of Payment of Development Charges

- 3.15 Development charges imposed under this By-law are calculated, payable, and collected upon issuance of a building permit for the development.
- 3.16 Despite section 3.14, Council from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable, in accordance with section 27 of the Act.

**4. PAYMENT BY SERVICES**

4.1 Despite the payment required under subsections 3.11 and 3.12, Council may, by agreement, give a credit towards a development charge in exchange for work that relates to a service to which a development charge relates under this By-law.

**5. INDEXING**

5.1 Development charges imposed pursuant to this By-law shall be adjusted annually, without amendment to this By-law, on January 1<sup>st</sup> of each year, in accordance with the prescribed index in the Act.

**6. SCHEDULES**

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

- Schedule A - Components of Services Designated in section 2.1
- Schedule B - Residential and Non-Residential Development Charges

**7. CONFLICTS**

7.1 Where the Township of Malahide 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 that there is a conflict.

7.2 Notwithstanding section 7.1, where a development which is the subject of an agreement to which section 7.1 applies, is subsequently the subject of one or more of the actions described in subsection 3.4(a), 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.

**8. SEVERABILITY**

8.1 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.

**9. DATE BY-LAW IN FORCE**

9.1 This By-law shall come into effect at 12:01 AM August 22, 2014.

**10. DATE BY-LAW EXPIRES**

10.1 This By-law will expire at 12:01 AM on August 20, 2019 unless it is repealed by Council at an earlier date.

PASSED THIS 21<sup>ST</sup> day of August, 2014.

  
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Mayor

  
\_\_\_\_\_  
Township of Malahide Clerk

**SCHEDULE "A" TO BY-LAW**

**COMPONENTS OF SERVICES DESIGNATED IN SUBSECTION 2.1**

100% Eligible Services

Road and Related

Roads

Depots and Domes

Public Works Rolling Stock

Fire Protection Services

Fire Facilities

Fire Vehicles

Small Equipment and Gear

90% Eligible Services

Outdoor Recreation Services

Parkland Development, Amenities & Trails

Indoor Recreation Services

Recreation Facilities

Library Services

Library Facilities

Administration

Studies



**SCHEDULE "B"**  
**BY-LAW NO. 2014 - 68**  
**SCHEDULE OF DEVELOPMENT CHARGES**

Service	RESIDENTIAL			NON-RESIDENTIAL
	Single and Semi-Detached Dwelling	Apartments	Other Multiples	(per ft <sup>2</sup> of Gross Floor Area)
<b>Municipal Wide Services:</b>				
Roads and Related	3,277	1,585	2,146	1.94
Fire Protection Services	615	298	403	0.36
Outdoor Recreation Services	252	122	165	0.08
Indoor Recreation Services	1,664	805	1,090	0.53
Library Services	126	61	83	0.04
Administration	439	212	287	0.26
<b>Total Municipal Wide Services</b>	<b>6,373</b>	<b>3,083</b>	<b>4,174</b>	<b>3.21</b>

Note: Clause 3.11 and 3.12 of this by-law establish the percentage of the rate which will be collected in any given time frame.