

BY-LAW NUMBER 27-2008

OF

THE REGIONAL MUNICIPALITY OF DURHAM

Being a by-law to prohibit or regulate the destruction or injuring of Trees in Woodlands in the Regional Municipality of Durham.

WHEREAS Section 135(2) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, permits the enactment of a by-law by the Council of The Regional Municipality of Durham to prohibit or regulate the destruction or injuring of Trees in Woodlands;

AND WHEREAS pursuant to Section 135(7) of the *Municipal Act*, a municipality may require that a Permit be obtained to injure or destroy Trees in Woodlands designated in the by-law and impose conditions on a Permit, including conditions relating to the manner in which destruction occurs and the qualification of persons authorized to injure or destroy Trees;

AND WHEREAS the Council of the Regional Municipality of Durham deems it desirable to enact a Regional Tree By-law for the purposes of:

- conserving and improving the Woodlands in the Region through Good Forestry Practices;
- promoting Good Forestry Practices that sustain healthy Woodlands and related natural habitats and environments;
- helping to achieve the objectives of the Regional Official Plan in ensuring the long term health and productivity of Woodlands;
- minimizing the destruction or injuring of Trees in Woodlands;
- regulating and controlling the removal and protection of Trees in Woodlands;
- minimizing and guarding against conditions which may result in injury;
- protecting, promoting and enhancing the aesthetic values of Woodlands; and
- contributing to ecosystem health, human health, recreation, enjoyment and quality of life through the maintenance of woodland cover.

NOW, THEREFORE, the Council of the Regional Municipality of Durham hereby enacts as follows:

1. DEFINITIONS

1.1 In this By-law:

- a) "Agricultural Operation" means the commercial production of crops or raising of livestock, and includes cultivation, seeding, and harvesting;
- b) "Area Municipality" means any one of the municipalities of the Town of Ajax, Township of Brock, Municipality of Clarington, City of Oshawa, City of Pickering, Township of Scugog, Township of Uxbridge and Town of Whitby;
- c) "Building Permit" means a building permit issued by an Area Municipality under the Building Code Act, 1992, S.O. 1992, c.23, as amended;
- d) "Business Day" means any day falling on or between Monday and Friday of each week but does not include statutory holidays;
- e) "Commissioner" means Commissioner of Planning of the Regional Municipality of Durham or his designate;
- f) "DBH" or "Diameter at Breast Height" means the diameter of the stem of a Tree measured at a point that is 1.37 metres above the ground;
- g) "Farmer" means a person who has a current and valid farm registration number under the Farm Registration and Farm Organizations Funding Act, 1993, S.O. 1993, c.21, as amended;

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- h) "Fence Row" means a narrow linear strip of Trees that defines a laneway or boundary between fields or properties;
- i) "Good Forestry Practices" means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments to forest values, including: significant ecosystems; important fish and wildlife habitat; soil and water quality and quantity; forest productivity and health; threatened, endangered and special concern species as regulated by Provincial or Federal statute and the aesthetic and recreational opportunities of the landscape;
- Good Forestry Practices allows for the destruction or injuring of Trees that:
- have been damaged by disease, insect infestations, wind, ice, fire, lightning, or other natural causes to an extent that the health of such Trees is likely to further deteriorate;
 - should be cut or removed to prevent disease of insects from spreading to other Trees;
 - are cut in accordance with the Forestry Management Practices as set out in the Ministry of Natural Resources document "A Silvicultural Guide to Managing Southern Ontario Forests"; or
 - are marked and cut as part of a Woodlands Management Plan prepared by a Registered Professional Forester.
- j) "Injury" means lasting damage to a Tree which may include, but is not limited to:
- i) broken branches in the crown of a Tree;
 - ii) the breaking off or splitting of the stem of any Tree and the noticeable tipping of any Tree;
 - iii) the splitting of, removal of, or damage to the bark of a Tree; or
 - iv) damage to the root structure of a Tree;
- k) "Multiple Offence" means an offence in respect to two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law;
- l) "Officer" means an individual appointed by Regional Council for the administration and enforcement of this By-law;
- m) "Owner" means the Person who is the registered owner on title to the land;
- n) "Permit" means the written authorization from the Officer or the Commissioner to injure or destroy Trees issued under Section 5 or 6 of this By-law;
- o) "Person" means an individual or a corporation and their respective heirs, executors, administrators or other duly appointed representatives;
- p) "Region" means the Regional Municipality of Durham;
- q) "Registered Professional Forester" means a duly qualified Person pursuant to the Professional Foresters Act, 2000, S.O. 2000, c.18, as amended;
- r) "Sensitive Natural Area" means lands that are in a Woodland and within:
- i) provincially or regionally identified Significant Wetlands; or
 - ii) lands that are designated Environmentally Sensitive Area in either the Durham Regional Official Plan or area municipal Official Plans; or
 - iii) 30 metres of the water's edge of a locally, regionally, or provincially significant wetland, lake, river, stream or intermittent stream; or
 - iv) Provincial or Regional Life Science Areas or Natural and Scientific Interest identified by the *Ministry of Natural Resources Act, 1982*, as amended; or

- v) key natural heritage features identified by the Durham Regional Official Plan and/or the Oak Ridges Moraine Conservation Plan.
- s) "Tree" or "Trees" means any living species of woody perennial plant, including its root system, which has reached or can reach a height of at least 4.5 meters at physiological maturity;
- t) "Tree Marker" means a person certified to mark Trees as a result of successfully completing the Ministry of Natural Resources Tree Certification Program; or a Registered Professional Forester; or a member in good standing of the Ontario Professional Foresters Association;
- u) "Woodland" or "Woodlands" means land on one or more properties with a density of:
 - i) at least:
 - 1) 1,000 Trees, of any size, per hectare;
 - 2) 750 Trees, measuring over five (5) centimetres at DBH, per hectare;
 - 3) 500 Trees, measuring over twelve (12) centimetres, at DBH, per hectare; or
 - 4) 250 Trees, measuring over twenty (20) centimetres, at DBH, per hectare.
 - ii) but does not include:
 - 1) a cultivated fruit or nut orchard;
 - 2) a plantation established for the purpose of producing Christmas Trees and which is being actively managed and harvested for the purposes for which it was planted, except that this does not refer to plantations that have ceased being managed or harvested for their intended purpose for a period of 15 years or more;
 - 3) a bona fide tree nursery that is being actively managed and harvested for the purposes for which it was planted;
 - 4) a fence row; or
 - 5) land previously cleared and used for agricultural purposes, which has become overgrown with young (less than 15 years old) and early successional tree species common on disturbed fields (e.g. Sumac, Hawthorn, Apple, Scots Pine, Poplar, White Birch, Ash) and which is intended to be used again as part of an Agricultural Operation.
- v) "Woodland Management Plan" means a plan for woodland management prepared and approved by a Registered Professional Forester or a member in good standing of the Ontario Professional Foresters Association, which describes details of landowners' objectives and proposed treatments showing them to be in accordance with Good Forestry Practices.

2. APPLICATION OF THE BY-LAW

- 2.1 This By-law shall apply to all Woodlands one (1) hectare or more in size.
- 2.2 Applicants are encouraged to consult with the Officer prior to the submission of any Permit application.

3. GENERAL PROHIBITIONS

- 3.1 No Person through their own actions or through any other Person shall injure or destroy any Tree located in a Woodland:
- a) Unless exempted by Section 4; or
 - b) Unless in possession of a valid Good Forest Practice Permit issued under Section 5 of this By-law, or a Clear Cutting Permit issued under Section 6 of this By-law, and pursuant to any applicable terms or conditions.
- 3.2 No Person through their own actions or through any other Person shall:
- a) Contravene the terms or conditions of a Permit issued under this By-law or cause or permit the contravention of the terms or conditions of a Permit issued under this By-law;
 - b) Fail to comply with an Order issued under Section 7 of this By-law; or
 - c) Remove or deface any Order that has been posted pursuant to Section 7 of this By-law.

4. EXEMPTIONS

Despite Section 3 of this By-law, this By-law does not apply to:

- 4.1 Activities or matters undertaken by a municipality or a local board of a municipality.
- 4.2 Activities undertaken by Conservation Authorities on lands owned by the Authorities.
- 4.3 Activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act, 1994*, S.O. 1994, c.25, as amended.
- 4.4 The Injury or destruction of Trees by a person licensed under the *Surveyors Act*, R.S.O. 1990, c. s.29, as amended, to engage in the practice of cadastral surveying or his or her agent, while making a survey.
- 4.5 The Injury or destruction of Trees imposed after December 31, 2002:
- a) as part of a Tree Preservation Plan required as a condition of approval in a plan of subdivision that has received draft approval under Section 51 of the *Planning Act*;
 - b) as part of a Tree Preservation Plan required as a condition on a consent approved under Section 53 of the *Planning Act*;
 - c) as a requirement in a Tree Preservation Plan approved and included in a site plan control agreement or a subdivision agreement entered into under Sections 41 and 51 respectively of the *Planning Act*;
 - d) in a development agreement between an Owner and an Area Municipality or the Region; or
 - e) as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act*, or as a requirement of an agreement entered into under the regulation.
- 4.6 The Injury or destruction of Trees by a transmitter or distributor, as those terms are defined in Section 2 of the *Electricity Act, 1998* S.O. 1998, c.15, Sched. A, as amended, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section.
- 4.7 The Injury or destruction of Trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*; R.S.O. 1990, c. A.8, as amended.
- 4.8 The Injury or destruction of Trees that is required in order to erect any building, structure or thing, including yard areas, in respect of which a Building Permit has been issued, provided that no Tree is removed that is located more than 15 metres from the outer edge of the building, structure or things and that only those Trees necessary to accommodate the building, structure or thing, including yard areas, are removed.

- 4.9 The Injury or destruction of Trees that is required in order to install and provide utilities to the construction or use of the building, structure or thing, including the installation of a primary septic bed, in respect of which a Building Permit has been issued.
- 4.10 The Injury or destruction of Trees that is required in order to install, provide or maintain a single lane driveway for vehicular access to the building, structure or thing in respect of which a Building Permit has been issued.
- 4.11 The Injury or destruction of Trees on lands, including buffer lands, used for the purpose of a licensed waste disposal site that has been approved, where applicable, under the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended; the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40, as amended; the *Environmental Assessment Act*, R.S.O. 1990, c. E.18, as amended; and the *Planning Act* and/or the Oak Ridges Moraine Conservation Plan.
- 4.12 The Injury or destruction of Trees for the construction of drainage works under the *Drainage Act*, R.S.O. 1990, c. D.17, as amended.
- 4.13 The Injury or destruction of Trees that:
- a) are dead;
 - b) are diseased, as identified in a Woodland Management Plan;
 - c) pose a hazard to human safety or property; or
 - d) are invasive and threaten Good Forestry Practices and environmental management (e.g. Buckthorn, Norway Maple, English Hawthorn, White Mulberry, Tree-of-Heaven, Siberian Elm).
- 4.14 Normal Farm Practices carried on as part of an Agricultural Operation which retains existing woodland cover, but includes activities such as:
- The removal of Trees for personal use;
 - The removal of Trees for farm-related uses such as fence posts and rails;
 - The removal of fence rows where required; and
 - But which does not include Clear Cutting as defined in Section 6 of this By-law.

5. GOOD FORESTRY PRACTICE PERMITS

- 5.1 Every Person who intends to injure or destroy a Tree or Trees, in a manner that does not constitute Clear Cutting as defined in Section 6 of this By-law, shall first complete and submit to the Region, an application for a Good Forestry Practice Permit.

The Officer may, at his or her discretion, waive the requirement for a Good Forestry Practice Permit where the Tree removal being proposed involves a very small number of Trees and the impact of the removal is deemed to be negligible or imperceptible to the integrity of the overall Woodland.

- 5.2 Each Good Forestry Practice Permit application must be accompanied by the following:
- a) A copy of the completed application form signed by the Owner;
 - b) The required fee;
 - c) Such additional information as the Officer may require;
 - d) For applications which propose to injure, destroy or remove more than 50 Trees, a Woodland Management Plan, prepared by a Registered Professional Forester or an associate member in good standing of the Ontario Professional Foresters Association, shall accompany the application. The Woodland Management Plan will identify on a map or drawing, the Trees to be injured, destroyed or removed, and will describe how Good Forestry Practices will be followed should the application be approved;
 - e) For applications which propose to injure, destroy or remove less than 50 Trees, a plan showing the location of the trees to be affected shall be submitted, together with a

description of how Good Forestry Practices are to be followed should the application be approved; and

- f) If the area to which the application applies contains a Sensitive Natural Area, a Woodland Management Plan shall be prepared and submitted with the application, regardless of the number of Trees to be injured, destroyed or removed. The Woodland Management Plan shall identify the environmental protection measures necessary to protect that Sensitive Natural Area feature.

5.3 Upon review and consideration of the application, an Officer may issue a Good Forestry Practice Permit to permit the injuring, destruction or removal of Trees in a Woodlot, provided the injuring or destruction of trees will not reduce the number of Trees per hectare below the minimum number of Trees per hectare required to meet the definition of Woodland as defined in Section 1 of this By-law.

5.4 The Officer may impose conditions on the Permit that relate to, but are not restricted to:

- a) the location, number, size and type of Tree to be injured, destroyed or removed;
- b) manner and timeframe within which the affected Trees are to be injured, destroyed or removed;
- c) the marking, with paint or other material, of the Trees to be injured, destroyed or removed;
- d) the qualifications of the Persons authorized to injure, destroy or remove the Trees;
- e) the measures to be implemented to mitigate the direct and indirect effects of the injuring, destruction or removal of Trees within Sensitive Natural Area; and
- f) such additional information as may be required before the Permit becomes effective.

5.5 Prior to the injury, destruction or removal of any Trees pursuant to the Permit, a copy of the Permit shall be posted and displayed in a prominent location along an open public road at the nearest practical location to the affected site area. The posted Permit shall remain on display until the work for which the Permit was issued, has been completed.

5.6 A Good Forestry Practice Permit shall generally be in effect for a period of one year, and is not transferable. If the activity for which the Permit was issued has not taken place within that one year period, the Permit shall lapse and be of no effect.

Notwithstanding the foregoing, a Good Forestry Practice Permit may be in effect for longer than one year if a Woodland Management Plan has been prepared and approved to guide the management of the subject Woodland for a longer period. In such cases, the Good Forestry Practice Permit will remain in effect for the period of time that the Woodland is intended to be managed by the Plan, to a maximum of seven years. Provided the Woodland is being managed in accordance with the terms and recommendations of a Woodland Management Plan approved under the provisions of this By-law, no further Good Forestry Practice Permits will be required for the injury, destruction or removal of Trees within the area to which the Woodland Management Plan applies.

Notwithstanding the provisions of subsection 5.5, where a Good Forestry Practice Permit is to be in effect for a period greater than one year, the Permit need only be posted during the period of the initial Tree management activity.

5.7 Prior to the expiry of the Permit, the Owner may request in writing, that the Permit be renewed for a period of up to one year from the date of the original Permit. Such requests shall not be unreasonably denied. Permits may be renewed one time only.

5.8 Where a Good Forestry Practice Permit application has been denied, the Officer will notify the applicant in writing by registered mail within 10 business days of the decision, and shall provide reasons for the denial.

6. CLEAR CUTTING PERMITS

For the purposes of this Section, "Clear Cutting" means the removal of all Trees within all or a portion of a Woodland, where the area of the Woodland to be cut is in excess of 0.1 hectare.

- 6.1 Every Person who intends to Clear Cut a portion of a Woodland greater than 0.1 hectare in size shall first complete and submit to the Region, an application for a Clear Cutting Permit.

Every Person who intends to clear cut a portion of a Woodland 0.1 hectare or less, shall first complete and submit a Good Forest Practice Permit application pursuant to Section 5 of this By-law.

- 6.2 Each Clear Cutting Permit application must be accompanied by the following:

- a) A copy of the completed application form signed by the Owner;
- b) The required fee;
- c) A plan or drawing having sufficient detail to clearly show the extent and location of the Trees to be Clear Cut;
- d) Such additional information as the Commissioner may require, such as an Edge Treatment Plan; and
- e) If the portion of the Woodland to which the application applies contains a Sensitive Natural Area, the application shall be accompanied by a report prepared by qualified natural heritage expert which shall identify the environmental protection measures necessary to protect that Sensitive Natural Area feature.

- 6.3 For applications that seek to Clear Cut between 0.1 hectare and 1 hectare of Woodland, the Commissioner, upon review and consideration of the application, may issue a Clear Cutting Permit. In making a decision on whether or not to issue the Permit, the Commissioner will give consideration to the effect of the Clear Cutting on the integrity of the Woodlot as a whole.

- 6.4 The Commissioner may impose conditions on the Permit that relate to, but are not restricted to:

- a) the location and number of Trees to be clear cut;
- b) manner and timeframe within which the Trees are to be cut;
- c) the marking with paint or other material, the location of the Trees to be cut;
- d) the qualifications of the Persons authorized to clear cut the Trees;
- e) the measures to be implemented to mitigate the direct and indirect effects of the clear cutting on a Sensitive Natural Area;
- f) the re-planting of Trees;
- g) a requirement that land cleared for farm purposes must be put into agricultural use within a specified time period (e.g. 3 years); and
- h) any such additional information as may be required before the Permit becomes effective.

- 6.5 Prior to the Clear Cutting taking place, a copy of the Permit shall be posted and displayed in a prominent location along an open public road at the nearest practical location to the affected site area. The posted Permit is to remain on display until the work for which the Permit was issued has been completed.

- 6.6 A Clear Cutting Permit may be issued for an effective period of up to one year, and is not transferable. If the Clear Cutting for which the Permit was issued has not taken place within that one year period, the Permit shall lapse and be of no effect.

- 6.7 Prior to the expiry of the Permit, the Owner may request in writing, that the Permit be renewed for a period of up to one year from the date of the original Permit. Such requests shall not be unreasonably denied. Permits may be renewed one time only.
- 6.8 Where a Clear Cutting Permit application has been denied, the Commissioner will notify the applicant in writing by registered mail within 10 business days of the decision, and shall provide reasons for the denial.
- 6.9 For applications that seek to Clear Cut an area of Woodland greater than 1 hectare, a public meeting before the Regional Planning Committee shall be required, and Regional Council approval shall be required before the Commissioner will be authorized to issue the Clear Cutting Permit.
- 6.10 For the purposes of determining the area of Woodlot to be Clear Cut in subsection 6.9 above, consideration shall be given to the cumulative amount of Woodland Clear Cut from the date that this By-law has come into effect. A public meeting may be required for an application less than 1 hectare in area, if the cumulative amount of treed area to be Clear Cut from that Woodland since the coming into effect of this By-law, exceeds 1 hectare.
- 6.11 Within 10 days of receipt of an application for permission to Clear Cut an area greater than 1 hectare in size, the Commissioner or his designate shall send by regular mail or by personal delivery, written notice of the public meeting to the applicant, to all assessed Owners of each parcel of land that abuts the Woodlot from which Trees are proposed to be Clear Cut, and to any other such Person or agency as the Commissioner deems appropriate.
- 6.12 At least 20 days prior to the public meeting, the applicant shall erect a public notice sign in the form approved by the Commissioner, in a prominent location along an open public road at the nearest practical location to the affected site area.
- 6.13 Upon review and consideration of the application, and at least 20 days prior to the Public Meeting, the Commissioner shall prepare a report to Regional Planning Committee, which report shall recommend whether or not the application should be approved, and the reasons for the recommendation.
- 6.14 At the public meeting, the applicant and any interested Person shall be afforded an opportunity to address the Planning Committee. The Committee's recommendation shall be forwarded to Regional Council for consideration, and Council may authorize the Commissioner to issue the Clear Cutting Permit and impose conditions as deemed appropriate, or it may direct the Commissioner to deny the application.
- Any Clear Cutting Permits issued under this Subsection, shall also be subject to the provisions of subsections 6.5, 6.6, and 6.7.
- 6.15 Where Council directs the Commissioner not to issue a Clear Cutting Permit, the applicant will be notified in writing by registered mail within 10 business days of the Council meeting, and such notice shall provide reasons for the denial.

7. ENFORCEMENT

- 7.1 An Officer, appointed by By-law of Regional Council, or any person authorized by an Officer, may at all reasonable times enter upon and inspect any land and Woodland for the purposes of enforcing this By-law, determining compliance with this By-law, determining compliance with terms and conditions of a Permit issued under this By-law, or laying charges under this By-law.
- 7.2 Where an Officer has determined that a contravention of this By-law has occurred, the Officer may make an Order requiring the Person who contravened the By-law or who caused or permitted the injuring or destruction of Trees in contravention of the By-law, to stop the injuring or the destruction of Trees. The Order shall set out:
- a) the municipal address or the legal description of the land;
 - b) reasonable particulars of the contravention; and
 - c) the period within which there must be compliance with the Order.

8. PENALTY

- 8.1 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable a fine of not less than \$500 and not more than \$100,000.
- 8.2 Despite subsection 8.1, the Region designates that the destruction of each Tree is one offence in a series of Multiple Offences. In the case of Multiple Offence, a Person found guilty of contraventions of the By-law constituting a Multiple Offence is liable upon conviction, for each offence included in the Multiple Offence, for minimum fine of \$500 and a maximum fine not exceeding \$10,000, however, despite Section 8.1, the total of all fines for each included offence is not limited to \$100,000.
- 8.3 If a Person is convicted of an offence for contravening this By-law the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or to plant or replant Trees in such a manner and within such period as the court considers appropriate.

9. ADMINISTRATION

- 9.1 Schedule "A" shall form part of this By-law.
- 9.2 If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Regional Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be enacted as such.
- 9.3 The short title of this By-law is the "Regional Tree By-law".
- 9.4 An Owner of a property shall be presumed to have injured or destroyed or caused or permitted to be injured or destroyed a Tree growing in a Woodland, or contravened or cause or permitted the contravention of the terms or conditions of a Permit issued under this By-law, as the case may be, which presumption may be rebutted by evidence to the contrary on a balance on probabilities.
- 9.5 By-law 148-91 of the Regional Municipality of Durham and any amendments thereto, are hereby repealed.
- 9.6 Despite subsection 9.5, By-law 148-91 shall continue to apply to:
- a) proceedings in respect of offences that occurred before its repeal; and
 - b) Notice of Intent submissions in compliance with By-law 148-91, which were made prior to its repeal.
- 9.7 This By-law shall come into force and effect on July 1, 2008.

This by-law read and passed this 18th day of June, 2008.


Roger Anderson, Regional Chair


P.M. Madill, Regional Clerk

REGIONAL MUNICIPALITY OF DURHAM
TREE BY-LAW NO. 27-2008

SCHEDULE A – FEES

1. Application for a Good Forestry Practices Permit \$ 50.00

2. Application for a Clear Cutting Permit
(Between 0.1 Ha and 1 Ha) \$ 75.00

3. Application for Clear Cutting Permit
(Greater than 1Ha) \$ 100.00 Excluding Advertising
Costs for a Public Meeting

BY-LAW NUMBER 28-2008

OF

THE REGIONAL MUNICIPALITY OF DURHAM

being a by-law to appoint a forester as municipal by-law enforcement officer for the Regional Municipality of Durham (the "Region") for the purpose of enforcing the Regional Tree By-law No. 27-2008.

WHEREAS Section 15(1) of the Police Services Act R.S.O. 1990, c.P.15 authorizes the Council of any municipality to appoint one or more Municipal Law Enforcement Officers, who shall be peace officers for the purposes of enforcing the by-laws of the municipality;

AND WHEREAS the Municipal Act, 2001 gives the Region the ability to pass a tree by-law to regulate and prohibit the destruction or injuring of trees in woodlands within the Region and to enforce such prohibitions;

AND WHEREAS the Regional Council has authorized the hiring of a forester as a municipal by-law enforcement officer for the Region for the purpose of enforcing the Regional Tree By-law;

NOW THEREFORE, BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of The Regional Municipality of Durham through its Council as follows:

1. That James Rogers, owner of Kestrel Forestry Consulting, or his designate, as retained by The Regional Municipality of Durham, be hereby appointed as a Municipal By-Law Enforcement Officer under Regional By-Law No. 28-2008.

THIS BY-LAW READ AND PASSED this 18th day of June, 2008.



Roger Anderson, Regional Chair

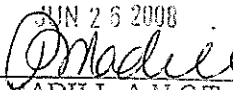


P.M. Madill, Regional Clerk

BY-LAW NUMBER 39-2008

OF

THE REGIONAL MUNICIPALITY OF DURHAM

JUN 26 2008

 P. MADILL, A.M.C.T.
 REGIONAL CLERK

being a by-law to amend By-law No. 67-2007, being a by-law regarding development charges for transit services

WHEREAS Section 19 of the *Development Charges Act*, 1997, S.O. 1997, c.27, (the "Act"), provides for amendments to development charge by-laws;

AND WHEREAS the Council of The Regional Municipality of Durham requires certain amendments to By-law No. 67-2007;

AND WHEREAS in accordance with the Act, a development charge background study has been completed in support of the proposed amendments to By-law No. 67-2007;

AND WHEREAS the Council of The Regional Municipality of Durham has given notice and held a public meeting on the 18th day of June, 2008, in accordance with the Act;

AND WHEREAS the Council of The Regional Municipality of Durham has permitted any person who attended the public meeting to make representations in respect of the proposed amendments;

AND WHEREAS the Council of The Regional Municipality of Durham has determined that a further public meeting is not necessary pursuant to Section 12(3) of the Act;


NOW THEREFORE, BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of The Regional Municipality of Durham by the Council thereof as follows:

1. Section 1 of By-law No. 67-2007 is hereby amended by adding the following after the definition of "office use":

(v.1) "place of worship" means a building or structure or part thereof that is used primarily for worship and is exempt from taxation as a place of worship under the *Assessment Act*;
2. Section 13 of By-law No. 67-2007 is hereby amended by adding the following after Section 13(2):

13. (3) Places of worship are exempt from development charges imposed under this by-law.
3. This by-law shall come into force on June 18, 2008.

BY-LAW read and passed this 18th day of June, 2008


 Roger Anderson, Regional Chair

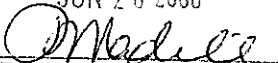

 P.M. Madill, Regional Clerk

BY-LAW NUMBER 44-2008

OF

THE REGIONAL MUNICIPALITY OF DURHAM

JUN 26 2008


 P. MADILL, A.M.C.T.
 REGIONAL CLERK
being a by-law regarding development charges

WHEREAS section 2(1) of the *Development Charges Act, 1997*, provides that 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 development of the area to which the by-law applies if the development requires one or more of the approvals identified in section 2(2) of the *Development Charges Act, 1997*;

AND WHEREAS a development charge background study has been completed in support of the imposition of development charges;

AND WHEREAS the Council of The Regional Municipality of Durham has given notice and held a public meeting on May 7, 2008, in accordance with section 12(1) of the *Development Charges Act, 1997*;

AND WHEREAS the Council of The Regional Municipality of Durham has permitted any person who attended the public meeting to make representations in respect of the proposed development charges;

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF DURHAM HEREBY ENACTS AS FOLLOWS:

PART I**INTERPRETATION****Definitions**

1. In this By-law,
 - (a) "Act" means the *Development Charges Act, 1997*, or a successor statute;
 - (b) "agricultural use" means lands, buildings or structures, excluding any portion thereof used as a dwelling unit or for a commercial use, used or designed or intended for use for the purpose of a *bona fide* farming operation including, but not limited to, animal husbandry, dairying, livestock, fallow, field crops, removal of sod, forestry, fruit farming, greenhouses, horticulture, market gardening, pasturage, poultry keeping, and equestrian facilities;
 - (c) "apartment building" means a residential building, or the residential portion of a mixed-use building, other than a triplex, semi-detached duplex, semi-detached triplex, townhouse or stacked townhouse, consisting of more than 3 dwelling units, which dwelling units have a common entrance to grade;
 - (d) "apartment" means a dwelling unit in an apartment building;
 - (e) "area municipality" means a lower-tier municipality that forms part of the Region;
 - (f) "bedroom" means any room used, or designed or intended for use, as sleeping quarters;

- (g) "commercial use" means land, buildings or structures used, or designed or intended for use for either or both of office and retail uses as defined in this by-law;
- (h) "Council" means the Council of the Regional Municipality of Durham;
- (i) "development" includes redevelopment;
- (j) "development charges" means charges imposed pursuant to this By-law in accordance with the Act, except in sections 20 and 21 where "development charges" means charges with respect to water supply services, sanitary sewer services and regional road services;
- (k) "duplex" means a building comprising, by horizontal division, two dwelling units, each of which has a separate entrance to grade;
- (l) "dwelling unit" means a room or suite of rooms used, or designed or intended for use by one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;
- (m) "existing industrial building" means a building used for or in connection with,
 - (i) manufacturing, producing, processing, storing or distributing something,
 - (ii) research or development in connection with manufacturing, producing or processing something,
 - (iii) 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,
 - (iv) office or administrative purposes, if they are,
 - (1) carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - (2) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;
- (n) "farm building" means a building or structure used, or designed or intended for use in connection with a bona fide agricultural use and includes barns, silos, and similar structures but excludes a building or structure used, or designed or intended for use for residential or commercial uses;
- (o) "garden suite" means a one-unit detached, temporary residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable;
- (p) "gross floor area" means (except for the purposes of sections 9 and 17), in the case of a non-residential building or structure or the non-residential portion of a mixed-use building or structure, the aggregate of the areas of each floor, whether above or below grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating a non-residential and a residential use, and, for the purposes of this definition, the non-residential portion of a mixed-use building is deemed to include one-half of any area common to the residential and non-residential portions of such mixed-use building or structure;

- (q) "industrial use" means lands, buildings or structures used or designed or intended for use for manufacturing, producing, processing, fabricating or assembly of raw goods, research or development in connection therewith, 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 or similar use;
- (r) "institutional use" means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose, and includes office uses where such uses are accessory to an institutional use;
- (s) "large office building" means a building primarily used for offices that comprises a total gross floor area exceeding 25,000 square feet;
- (t) "local board" means a local board as defined in the *Municipal Affairs Act*, other than a board defined in subsection 1(1) of the *Education Act*;
- (u) "low density multiples" includes semi-detached dwellings, plexes, townhouses, stacked townhouses, mobile homes and all other residential uses that are not included in the definition of "apartment building", "apartment", "single detached" or "single detached dwelling";
- (v) "mixed-use" means land, buildings or structures used, or designed or intended for use, for a combination of at least two of commercial, industrial, institutional or residential uses;
- (w) "mobile home" means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent or temporary residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed;
- (x) "non-residential use" means lands, buildings or structures or portions thereof used, or designed or intended for use for other than residential use, and includes commercial, industrial and institutional uses;
- (y) "office use" means lands, buildings or structures used or designed or intended for use for the practice of a profession, the carrying on of a business or occupation and, for greater certainty, but without in any way limiting the generality of the foregoing, shall include but not be limited to the office of a physician, lawyer, dentist, architect, engineer, accountant, real estate or insurance agency, insurance company, veterinarian, surveyor, appraiser, financial institution, consumer loan company, employment agency, advertising agency, consulting firm, business service, investment company, security broker, mortgage company, medical clinic, builder, land developer;
- (z) "place of worship" means a building or structure or part thereof that is used primarily for worship and is exempt from taxation as a place of worship under the *Assessment Act*;
- (aa) "plex" means a duplex, a semi-detached duplex, a triplex or a semi-detached triplex;
- (bb) "Region" means the Regional Municipality of Durham;
- (cc) "region-wide charges" means the development charges imposed in regard to the region-wide services;
- (dd) "region-wide services" means services in regard to regional roads, regional police, emergency medical services, long term care, and development related studies;

- (ee) "residential use" means lands, buildings or structures used, or designed or intended for use as a home or residence of one or more individuals, and shall include, but is not limited to, a single detached dwelling, a semi-detached dwelling, a townhouse, a plex, a stacked townhouse, an apartment building, a mobile home and a residential dwelling unit accessory to a non-residential use;
- (ff) "retail use" means lands, buildings or structures used or designed or intended for use for the sale or rental or offer for sale or rental of goods or services for consumption or use and, for greater certainty, but without in any way limiting the generality of the foregoing, shall include, but not be limited to, food stores, pharmacies, clothing stores, furniture stores, department stores, sporting goods stores, appliance stores, garden centres, automotive dealers, automotive repair shops, gasoline service stations, government owned retail facilities, private daycare, private schools, private lodging and retirement homes, private recreational facilities, sports clubs, golf courses, skiing facilities, race tracks, gambling operations, medical clinics, funeral homes, motels, hotels, rooming houses, restaurants, theatres, facilities for motion picture, audio and video production and distribution, sound recording services, self-storage mini warehouses and parking garages;
- (gg) "rooming house" means a detached building or structure which comprises rooms that are rented for lodging and where the rooms do not have both culinary and sanitary facilities for the exclusive use of individual occupants;
- (hh) "Seaton Community" means the lands shown on Schedule "F", which may generally be described as being bounded: to the south by the Canadian Pacific Railway right-of-way; to the west by West Duffins Creek; to the north by Provincial Highway No. 7; and to the east by Sideline 16 and the boundary between the City of Pickering and the Town of Ajax, and excludes the lands comprising the Hamlet communities of Whitevale, Green River and Brougham;
- (ii) "semi-detached duplex" means one of a pair of attached duplexes, each duplex divided vertically from the other by a party wall;
- (jj) "semi-detached dwelling" means a building divided vertically into and comprising 2 dwelling units;
- (kk) "semi-detached triplex" means one of a pair of triplexes divided vertically one from the other by a party wall;
- (ll) "serviced" means the particular service is connected to or available to be connected to the lands, buildings or structures, or, as a result of the development, will be connected to or will be available to be connected to the lands, buildings or structures, or the lands to be developed are in an area designated for the particular service in the Region's Official Plan;
- (mm) "services" means the services designated in section 7 of this by-law;
- (nn) "single detached dwelling" and "single detached" means a building comprising 1 dwelling unit;
- (oo) "stacked townhouse" means a building, other than a plex, townhouse or apartment building, containing at least 3 dwelling units; each dwelling unit separated from the other vertically and/or horizontally and each dwelling unit having a separate entrance to grade;
- (pp) "townhouse" means a building, other than a plex, stacked townhouse or apartment building, containing at least 3 dwelling units, each dwelling unit separated vertically from the other by a party wall and each dwelling unit having a separate entrance to grade;

- (qq) "triplex" means a building comprising 3 dwelling units, each of which has an separate entrance to grade.
2. In this by-law where reference is made to a statute or a section of a statute such reference is deemed to be a reference to any successor statute or section.

PART II

APPLICATION OF BY-LAW — RULES

Circumstances Where Development Charges are Payable

3. Development charges shall be payable in the amounts set out in sections 8, 12, 13 and 14 of this by-law where:
- (a) the lands are located in the area described in subsection 4(1); and
 - (b) the development of the lands requires any of the approvals set out in subsection 5(1).

Area to Which By-law Applies

4. (1) Subject to subsections 4(2) and 4(3), this by-law applies to all lands in the Region.
- (2) This by-law shall not apply to lands that are owned by and used for the purposes of:
- (a) the Region or a local board thereof;
 - (b) a board as defined in subsection 1(1) of the *Education Act*; and
 - (c) an area municipality or a local board thereof in the Region.
- (3) Development charges imposed under this by-law in regard to water supply and sanitary sewerage services do not apply to the development of lands located within the Seaton Community. For greater certainty, the balance of the development charges imposed under this by-law apply to the development of lands located within the Seaton Community.

Approvals for Development

5. (1) Development charges shall be imposed upon all lands, buildings or structures that are developed for residential or non-residential uses if the development requires,
- (a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act*;
 - (b) the approval of a minor variance under section 45 of the *Planning Act*;
 - (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
 - (e) a consent under section 53 of the *Planning Act*;
 - (f) the approval of a description under section 50 of the *Condominium Act*; or
 - (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.

- (2) Council has determined that the development of the land to which this by-law applies increases the need for the services designated in section 7.
6. (1) No more than one development charge for each service designated in section 7 shall be imposed on land to which this by-law applies even though two or more of the actions described in subsection 5(1) are required before the land can be developed.
 - (2) Notwithstanding subsection 6(1), if two or more of the actions described in subsection 5(1) occur at different times, additional development charges shall be imposed, if the subsequent action has the effect of increasing the need for services.

Designation of Services

7. (1) The categories of services for which development charges are imposed under this by-law are as follows:
 - (a) water supply;
 - (b) sanitary sewerage;
 - (c) regional roads;
 - (d) long term care;
 - (e) regional police;
 - (f) emergency medical services; and
 - (g) development related studies.
- (2) The components of the services designated in subsection 7(1) are described on Schedule "A".

Amount of Charge

Residential

8. The development charges described in Schedule "B" to this by-law shall be imposed upon 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, upon the residential uses in the mixed use building or structure, according to the type of residential unit. The development charges payable shall comprise the following:
 - (a) Region-wide Charges
 - (i) a development charge with respect to each of the region-wide services according to the type of residential use;
 - (b) Regional Water Supply and Sanitary Sewer Charges
 - (i) where the lands, buildings or structures are serviced by regional water supply services, the development charge with respect to water supply services according to the type of residential use;
 - (ii) where the lands, buildings or structures are serviced by regional sanitary sewer services, the development charge with respect to sanitary sewer services according to the type of residential use.

Exemptions

9. (1) In this section,

- (a) "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;
 - (b) "other residential building" means a residential building not in another class of residential building described in this subsection;
 - (c) "semi-detached or row dwelling" means a residential building consisting of one dwelling unit having one or two vertical walls, but no other parts, attached to another structure;
 - (d) "single detached dwelling" means a residential building consisting of one dwelling unit and not attached to another structure.
- (2) Subject to subsections 9(3) and 9(4), development charges shall not be imposed in respect to:
- (a) the issuance of a building permit not resulting in the creation of an additional dwelling unit;
 - (b) the enlargement of an existing dwelling unit;
 - (c) the creation of one or two additional dwelling units in an existing single detached dwelling;
 - (d) the creation of one additional dwelling unit in a semi-detached dwelling, a row dwelling, or any other residential building.
- (3) Notwithstanding subsection 9(2)(c), development charges shall be imposed in accordance with section 8 if the total gross floor area of the additional one or two dwelling units in the existing single detached dwelling exceeds the gross floor area of the existing dwelling unit.
- (4) Notwithstanding subsection 9(2)(d), development charges shall be imposed in accordance with section 8 if the additional dwelling 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 already contained in the residential building.

Garden Suite

10. (1) The development charges imposed upon a garden suite under section 8 shall be payable at the rate applicable to a one-bedroom apartment.
- (2) The development charges paid in regard to a garden suite shall be refunded in full to the then current owner thereof, upon request, if the garden suite is demolished or removed within ten years of the issuance of the building permit relating thereto.
- (3) The onus is on the applicant to produce evidence to the satisfaction of the Region, acting reasonably, which establishes that the applicant is entitled to the refund claimed under this section.

Mobile Home

11. (1) The development charges imposed upon a mobile home under section 8 shall be payable at the rate applicable to an apartment of two bedrooms or larger.
- (2) The development charges paid in regard to a mobile home shall be refunded in full to the then current owner thereof, upon request, if the mobile home is removed within ten years of the issuance of the building permit relating thereto.
- (3) The onus is on the applicant to produce evidence to the satisfaction of the Region, acting reasonably, which establishes that the applicant is entitled to the refund claimed under this section.

Non-Residential

Commercial

12. (1) The development charges described in Schedule "C" to this by-law shall be imposed upon commercial uses of lands, buildings or structures, and, in the case of a mixed use building or structure, upon the commercial uses in the mixed use building or structure. The development charges payable shall comprise the following:
 - (a) Regional Road Charges
 - (i) a development charge with respect to regional road services according to the gross floor area of the commercial use;
 - (b) Regional Water Supply and Sanitary Sewer Charges
 - (i) where the lands, buildings or structures are serviced by regional water supply services, the development charge with respect to water supply services according to the gross floor area of the commercial use;
 - (ii) where the lands, buildings or structures are serviced by regional sanitary sewer services, the development charge with respect to sanitary sewer services according to the gross floor area of the commercial use.
- (2) Notwithstanding subsection 12(1), the total development charges payable for a large office building shall be the total development charges payable for commercial development pursuant to Schedule "C", adjusted in accordance with section 24 of this by-law to the date of payment, multiplied by 25%.

Institutional

13. The development charges described in Schedule "D" to this by-law shall be imposed upon institutional uses of lands, buildings or structures, and, in the case of a mixed use building or structure, upon the institutional uses in the mixed use building or structure. The development charges payable shall comprise the following:
 - (a) Regional Road Charges
 - (i) a development charge with respect to regional road services according to the gross floor area of the institutional use;
 - (b) Regional Water Supply and Sanitary Sewer Charges

- (i) where the lands, buildings or structures are serviced by regional water supply services, the development charge with respect to water supply services according to the gross floor area of the institutional use;
- (ii) where the lands, buildings or structures are serviced by regional sanitary sewer services, the development charge with respect to sanitary sewer services according to the gross floor area of the institutional use.

Industrial

14. Effective January 1, 2009, the development charges described in Schedule "E" to this by-law shall be imposed upon industrial uses of lands, buildings or structures, and, in the case of a mixed use building or structure, upon the industrial uses in the mixed use building or structure. The development charges payable shall comprise the following:
- (a) **Regional Road Charges**
 - (i) a development charge with respect to regional road services according to the gross floor area of the industrial use;
 - (b) **Regional Water Supply and Sanitary Sewer Charges**
 - (i) where the lands, buildings or structures are serviced by regional water supply services, the development charge with respect to water supply services according to the gross floor area of the industrial use;
 - (ii) where the lands, buildings or structures are serviced by regional sanitary sewer services, the development charge with respect to sanitary sewer services according to the gross floor area of the industrial use.

Phasing

15. (1) The development charges imposed under sections 12 and 13 shall be phased and shall be payable in the amounts applicable at the date of payment as set out in the applicable column of Schedules "C" and "D". For greater certainty, the columns contained in Schedules "C" and "D" apply to the following periods:
- (a) Column I - July 1, 2008 to June 30, 2009
 - (b) Column II - July 1, 2009 to June 30, 2010
 - (c) Column III - July 1, 2010 to June 30, 2013
- (2) The development charges imposed under section 14 shall be phased and shall be payable in the amounts applicable at the date of payment as set out in the applicable column of Schedule "E". For greater certainty, the columns contained in Schedule "E" apply to the following periods:
- (a) Column I - January 1, 2009 to June 30, 2009
 - (b) Column II - July 1, 2009 to June 30, 2010
 - (c) Column III - July 1, 2010 to June 30, 2013
- (3) The development charges described in Columns II and III of Schedules "C", "D" and "E" shall be adjusted annually in accordance with section 24 of this by-law to the date of payment.

Exemptions

16. (1) Notwithstanding sections 12, 13 and 14 of this by-law, development charges shall not be imposed upon non-residential development if the development does not have the effect of creating gross floor area of non-residential development or of increasing existing gross floor area of non-residential development.
- (2) Agricultural uses and farm buildings are exempt from development charges imposed under this by-law.
- (3) Places of worship are exempt from development charges imposed under this by-law.

Exemption for Enlargement of Existing Industrial Building

17. (1) Despite any other provisions of this by-law, if a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable in respect of the enlargement shall be calculated as follows:
 - (a) if the gross floor area is enlarged by fifty percent or less, the amount of the development charge in respect of the enlargement is zero;
 - (b) if the gross floor area is enlarged by more than fifty percent 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:
 - (i) determine the amount by which the enlargement exceeds fifty percent of the gross floor area before the enlargement; and
 - (ii) divide the amount determined under paragraph (i) by the amount of the enlargement.
- (2) For the purposes of subsection 17(1) the following provisions apply:
 - (a) the gross floor area of an existing industrial building shall be calculated as it existed prior to the first enlargement of such building for which an exemption under subsection 17(1) was sought;
 - (b) the enlargement of the gross floor area of the existing industrial building must be attached to such building;
 - (c) the enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, shared below grade connection, foundation, footing or parking facility, but must share a common wall with such building.
- (3) In this section "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.

Reduction of Development Charges For Redevelopment

18. (1) Despite any other provision of this by-law, where, as a result of the redevelopment of land, a building or structure existing on the land within ten 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, 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, the amount of the reduction in the applicable development charges will equal the applicable development charges under section 8 of this by-law that would have been chargeable on the type of dwelling units demolished or to be demolished or converted to another use; and
- (b) in the case of a non-residential building or structure, the amount of the reduction in the applicable development charges will equal the applicable development charges under sections 12, 13 or 14 of this by-law that would have been chargeable on the gross floor area of the non-residential building or structure that was demolished or to be demolished or converted to another use; and
- (c) in the case of a mixed-use building or structure, the amount of the reduction in the applicable development charges will equal the applicable development charges under sections 8, 12, 13 or 14 of this by-law that would have been chargeable either upon the type of dwelling units or the gross floor area of non-residential use in the mixed-use building or structure that is being demolished or to be demolished or converted to another use;

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

- (2) The onus is on the applicant to produce evidence to the satisfaction of the Region, acting reasonably, which establishes that the applicant is entitled to the reduction in the payment of development charges claimed under this section.

PART III

ADMINISTRATION

Timing of Payment of Development Charges

19. Development charges, adjusted in accordance with section 24 of this by-law to the date of payment, are payable in full on the date on which a building permit is issued with respect to each dwelling unit, building or structure.
20.
 - (1) Notwithstanding section 19, development charges, adjusted in accordance with section 24 to the date of payment, with respect to water supply services, sanitary sewer services and regional road services shall be payable, with respect to an approval of a residential plan of subdivision under section 51 of the Planning Act, immediately upon the owner entering into the subdivision agreement with the Region, on the basis of the proposed number and type of dwelling units in the plan of subdivision.
 - (2) Notwithstanding section 20(1), development charges applicable to a high density or condominium block in a residential plan of subdivision are payable in accordance with section 19.
 - (3) Notwithstanding subsection 20(1), where an owner elects to enter into an agreement with the Region pursuant to section 27 of the Act, development charges with respect to water supply services, sanitary sewer services and regional road services may be payable as follows:
 - (a) on the first anniversary date of the execution of the subdivision agreement, 50% of the development charges otherwise payable

under subsection 20(1), adjusted in accordance with section 24 to the date of payment; and

- (b) on the second anniversary date of the execution of the subdivision agreement, 50% of the development charges otherwise payable under subsection 20(1), adjusted in accordance with section 24 to the date of payment;

provided, however, in regard to any lot on the plan of subdivision, any balance of the development charges owing during the two year period following execution of the subdivision agreement shall become payable, after adjustment in accordance with section 24 to the date of payment, on the date a building permit is issued in regard to such lot.

- (4) The balance of the development charges outstanding at any time that are payable in accordance with subsection 20(3) shall be secured by a letter of credit, in a form acceptable to the Region, in an amount which is equal to 55 % of the development charges as determined under section 8 or 110% of the outstanding balance, whichever is less. The payment of the outstanding balance under subsection 20(3) may be made by way of a draw by the Region on the letter of credit.
 - (5) Notwithstanding section 19 and subsection 20(3), Council, from time to time, and at any time, may enter into agreements in accordance with section 27 of the Act which provide for all or any part of a development charge to be paid before or after it would otherwise be payable.
21. (1) If, at the time of issuance of a building permit or permits in regard to a lot on a plan of subdivision for which payments have been made pursuant to subsection 20(1) or 20(3), the type of dwelling unit for which building permits are being issued is different than that used for the calculation and payment under subsection 20(1) or 20(3), and there has been no change in the zoning affecting such lot, and the development charges for the type of dwelling unit for which building permits are being issued were greater at the time that payments were made pursuant to subsection 20(1) or 20(3) than for the type of dwelling unit used to calculate the payment under subsection 20(1) or 20(3), an additional payment to the Region is required, which payment, in regard to such different unit types, shall be the difference between the development charges in respect to the type of dwelling unit for which building permits are being issued, calculated as at the date of issuance of the building permit or permits, and the development charges previously collected in regard thereto, adjusted in accordance with section 24 of this by-law to the date of issuance of the building permit or permits.
- (2) If, at the time of issuance of a building permit or permits in regard to a lot on a plan of subdivision for which payments have been made pursuant to subsection 20(1) or 20(3), the total number of dwelling units of a particular type for which building permits have been or are being issued is greater, on a cumulative basis, than that used for the calculation and payment under subsection 20(1) or 20(3), and there has been no change in the zoning affecting such lot, an additional payment to the Region is required, which payment shall be calculated on the basis of the number of additional dwelling units at the rate prevailing as at the date of issuance of the building permit or permits for such dwelling units.
 - (3) If, at the time of issuance of a building permit or permits in regard to a lot on a plan of subdivision for which payments have been made pursuant to subsection 20(1) or 20(3), the type of dwelling unit for which building permits are being issued is different than that used for the calculation and payment under subsection 20(1) or 20(3), and there has been no change in the zoning affecting such lot, and the development charges for the type of dwelling unit for which building permits are being issued were less at

the time that payments were made pursuant to subsection 20(1) or 20(3) than for the type of dwelling unit used to calculate the payment under subsection 20(1) or 20(3), a refund in regard to such different unit types shall be paid by the Region, which refund shall be the difference between the development charges previously collected, adjusted in accordance with section 24 of this by-law to the date of issuance of the building permit or permits, and the development charges in respect to the type of dwelling unit for which building permits are being issued, calculated as at the date of issuance of the building permit or permits.

- (4) If, at the time of issuance of a building permit or permits in regard to a lot on a plan of subdivision for which payments have been made pursuant to subsection 20(1) or 20(3), the total number of dwelling units of a particular type for which building permits have been or are being issued is less, on a cumulative basis, than that used for the calculation and payment under subsection 20(1) or 20(3), and there has been no change in the zoning affecting such lot, a refund shall be paid by the Region, which refund shall be calculated on the basis of the number of fewer dwelling units at the rate prevailing as at the date of issuance of the building permit or permits.
- (5) Notwithstanding subsections 21(3) and (4), a refund shall not exceed the amount of the development charges paid under section 20.

Payment by Services

22. Notwithstanding the payments required under sections 19 and 20, the Region may, by agreement pursuant to section 38 of the Act, permit an owner to provide services in lieu of the payment of all or any portion of a development charge. The Region shall give the owner who performed the work a credit towards the development charge in accordance with the agreement subject to the requirements of the Act.

Front-Ending Agreements

23. Council, from time to time, and at any time, may enter into front-ending agreements in accordance with the Act.

Indexing

24. Development charges imposed pursuant to this by-law shall be adjusted annually, without amendment to this by-law, as of the 1st day of July, 2009, and on each successive July 1st date in accordance with the Statistics Canada Quarterly, *Construction Price Statistics*, catalogue number 62-007, for the most recently available annual period ending March 31.

Schedules

25. The following schedules to this by-law form an integral part thereof:

Schedule "A"	-	Components of Services Designated in section 7
Schedule "B"	-	Residential Development Charges
Schedule "C"	-	Commercial Development Charges
Schedule "D"	-	Institutional Development Charges
Schedule "E"	-	Industrial Development Charges
Schedule "F"	-	Map of Seaton Community

Date By-law in Force

26. This by-law shall come into force on July 1, 2008.

Date By-law Expires

27. This by-law will expire five years from the date it comes into force, unless it is repealed at an earlier date by a subsequent by-law.

Repeal

28. By-law No. 45-2003 is hereby repealed effective on the date this by-law comes into force.

Registration

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

Severability

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

Short Title

31. This By-law may be cited as the Regional Municipality of Durham Development Charges By-law, 2008.

BY-LAW read and passed this 18th day of June 2008.


Roger Anderson, Regional Chair


P.M. Madill, Regional Clerk

SCHEDULE "A"

**DESIGNATED REGIONAL SERVICES AND
SERVICE COMPONENTS THEREUNDER**

<u>CATEGORY OF REGIONAL SERVICES</u>	<u>SERVICE COMPONENTS</u>
1. Regional Road	<ul style="list-style-type: none">• Regional Road Construction/Improvements/Urbanization• Improvements to Highway Interchanges/Grade Separations• Intersection and Corridor Improvements• Traffic Signals and Systems• Property Acquisition• Maintenance Facilities• Capital Equipment• Landscaping• Studies• Environmental Assessment
2. Regional Police	<ul style="list-style-type: none">• Costs to Acquire Land or an Interest in Land, Including a Leasehold Interest• Costs to Improve Land• Costs to Acquire, Lease, Construct or Improve Buildings and Structures• Costs to Acquire, Lease, Construct or Improve Facilities• Vehicles and Equipment
3. Long Term Care	<ul style="list-style-type: none">• Costs to Acquire Land or an Interest in Land, Including a Leasehold Interest• Costs to Improve Land• Costs to Acquire, Lease, Construct or Improve Buildings and Structures• Costs to Acquire, Lease, Construct or Improve Facilities
4. Water Supply	<ul style="list-style-type: none">• Watermains• Pumping Stations• Reservoirs• Feeder mains• Water Supply Plants and Municipal Wells• Capital Equipment• Studies• Environmental Assessment• Water Use Efficiency Strategy• Well Interference
5. Sanitary Sewerage	<ul style="list-style-type: none">• Sewage Pumping Stations and Forcemains• Trunk and Sanitary Sewers• Water Pollution Control Plants• Sludge Storage and Disposal Facilities• Capital Equipment• Studies• Environmental Assessment• Water Use Efficiency
6. Emergency Medical Services	<ul style="list-style-type: none">• Land Ambulances and Equipment• Stations and Land
7. Development Related Studies	<ul style="list-style-type: none">• Studies

SCHEDULE "B"

**RESIDENTIAL DEVELOPMENT CHARGES EFFECTIVE
JULY 1, 2008 - \$ PER DWELLING TYPE**

SERVICE CATEGORY	SINGLE DETACHED	LOW DENSITY MULTIPLES	TWO BEDROOM APARTMENT & LARGER	ONE BEDROOM APARTMENT & SMALLER
<u>Region-Wide Charges</u>				
Regional Roads	6,252	5,239	3,645	2,294
Regional Police	447	360	264	166
Long-Term Care	33	27	20	12
Emergency Medical Services	109	88	64	40
Development Related Studies	25	20	14	9
Subtotal	6,866	5,734	4,007	2,521
<u>Regional Waters Supply & Sanitary Sewer Charges</u>				
Water Supply	5,923	4,768	3,453	2,174
Sanitary Sewerage	4,723	3,802	2,754	1,733
Subtotal	10,646	8,570	6,207	3,907
Total of All Charges	17,512	14,304	10,214	6,428

NOTE: The development charges described above shall be adjusted annually pursuant to section 24 of this By-law.

SCHEDULE "C"

**COMMERCIAL DEVELOPMENT CHARGES EFFECTIVE
JULY 1, 2008 - \$ PER SQUARE FOOT OF GROSS FLOOR AREA**

SERVICE CATEGORY	COLUMN I July 1, 2008 to June 30, 2009	COLUMN II July 1, 2009 to June 30, 2010	COLUMN III July 1, 2010 to June 30, 2013
Water Supply	1.13	1.70	2.27
Sanitary Sewerage	2.04	3.05	4.07
Regional Roads	5.37	8.06	10.74
Total of All Charges	8.54	12.81	17.08

NOTE: The development charges described in Columns II and III above shall be adjusted annually pursuant to section 24 of this By-law.

SCHEDULE "D"

**INSTITUTIONAL DEVELOPMENT CHARGES EFFECTIVE
JULY 1, 2008 - \$ PER SQUARE FOOT OF GROSS FLOOR AREA**

SERVICE CATEGORY	COLUMN I July 1, 2008 to June 30, 2009	COLUMN II July 1, 2009 to June 30, 2010	COLUMN III July 1, 2010 to June 30, 2013
Water Supply	0.11	0.17	0.22
Sanitary Sewerage	0.51	0.76	1.01
Regional Roads	1.76	2.63	3.51
Total of All Charges	2.38	3.56	4.74

NOTE: The development charges described in Columns II and III above shall be adjusted annually pursuant to section 24 of this By-law.

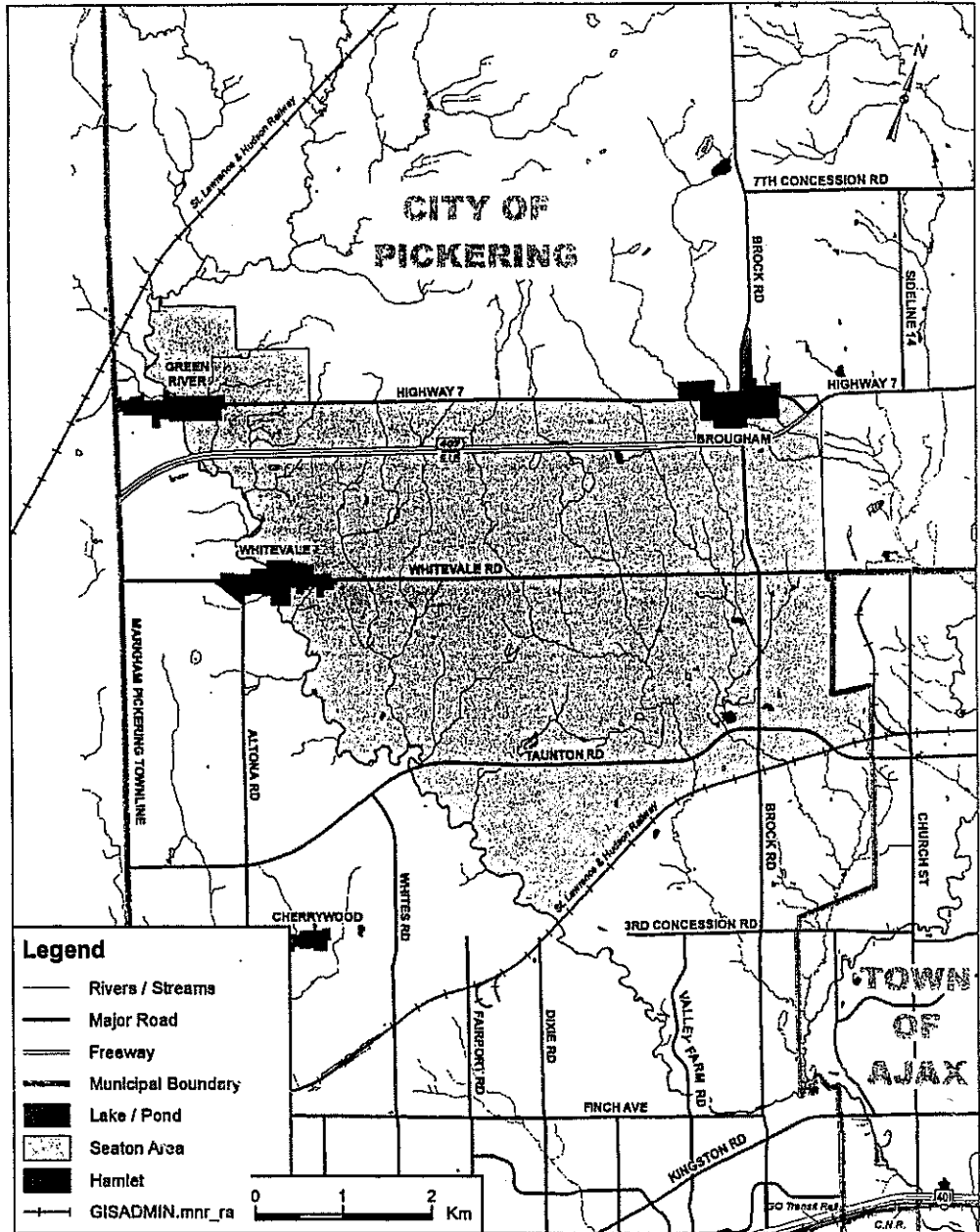
SCHEDULE "E"

**INDUSTRIAL DEVELOPMENT CHARGES EFFECTIVE
JANUARY 1, 2009 - \$ PER SQUARE FOOT OF GROSS FLOOR AREA**

SERVICE CATEGORY	COLUMN I January 1, 2009 to June 30, 2009	COLUMN II July 1, 2009 to June 30, 2010	COLUMN III July 1, 2010 to June 30, 2013
Water Supply	0.44	0.66	0.87
Sanitary Sewerage	0.81	1.21	1.61
Regional Roads	0.82	1.23	1.64
Total of All Charges	2.07	3.10	4.12

NOTE: The development charges described in Columns II and III above shall be adjusted annually pursuant to section 24 of this By-law.

SCHEDULE "F"
SEATON COMMUNITY




BY-LAW NUMBER 45-2008

OF

THE REGIONAL MUNICIPALITY OF DURHAM

being a new area specific by-law regarding development charges for sanitary sewerage works for the Carruthers Creek Development Area

JUN 26 2008

 P. MADILL, A.M.C.T.
 REGIONAL CLERK

WHEREAS section 2(1) of the *Development Charges Act, 1997*, provides that 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 development of the area to which the by-law applies if the development requires one or more of the approvals identified in section 2(2) of the *Development Charges Act, 1997*;

AND WHEREAS the Council of The Regional Municipality of Durham has given notice and held a public meeting on May 7, 2008, in accordance with section 12(l) of the *Development Charges Act, 1997*;

AND WHEREAS the Council of The Regional Municipality of Durham has permitted any person who attended the public meeting to make representations in respect of the proposed development charges;

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF DURHAM HEREBY ENACTS AS FOLLOWS:

PART I

INTERPRETATION

Definitions

1. In this By-law,
 - (a) "Act" means the Development Charges Act, 1997;
 - (b) "Area Municipality" means a lower-tier municipality that forms part of the Region;
 - (c) "Carruthers Creek Development Area" means the area within the Region generally as described in Schedule A and shown on Schedule B;
 - (d) "Council" means the Council of The Regional Municipality of Durham;
 - (e) "Development" includes redevelopment;
 - (f) "Development Charges" means a development charge imposed pursuant to this by-law in accordance with the Act in regard to sanitary sewerage services;
 - (g) "Local Board" means a local board as defined in the Municipal Affairs Act, other than a board defined in section 1(1) of the Education Act;
 - (h) "Mixed-Use" means a building or structure containing both Non-Residential and Residential uses;
 - (i) "Net Hectares of Land" means the area of any parcel of land in the Carruthers Creek Development Area in hectares net of the area designated by the Toronto and Region Conservation Authority as floodplain and/or fill regulated area, and net of any area existing or required by the Ontario Hydro Electric Power Commission for its high voltage transmission line corridor;

- (j) "Non-Residential" means the use of lands, buildings or structures for other than a Residential use;
 - (k) "Region" means The Regional Municipality of Durham;
 - (l) "Residential" means the use of lands, buildings or structures used, or designed or intended for use as a home or residence of one or more individuals;
 - (m) "Residential Unit" means a residential building or structure or a room or suite of rooms within a residential building or structure used, or designed or intended for use by one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;
 - (n) "Service" means the service designated in section 7 of this by-law.
2. In this by-law where reference is made to a statute or a section of a statute such reference is deemed to be a reference to any successor statute or section.

PART II

APPLICATION OF BY-LAW — RULES

Circumstances Where Development Charges are Payable

3. Development charges shall be payable in the amounts set out in section 8 of this by-law where:
- (a) the lands are located in the area described in section 4(l); and
 - (b) the development of the lands requires any of the approvals set out in section 5(1).

Lands Affected

4. (1) Subject to section 4(2), this by-law applies to all lands within the Carruthers Creek Development Area.
- (2) This by-law shall not apply to lands that are owned by and used for the purposes of:
- (i) the Region or a Local Board thereof;
 - (ii) a board as defined in section 1(1) of the *Education Act*;
 - (iii) an Area Municipality or a Local Board thereof in the Region.

Approvals for Development

5. (1) Development Charges shall be imposed upon all lands in the Carruthers Creek Development Area that are developed for Residential uses or Non-Residential uses if the Development requires;
- (i) the passing of a zoning by-law or of an amendment thereto 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*;
 - (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*;
 - (vii) the issuing of a permit under the *Building Code Act, 1992*;
- (2) Council has determined that the Development of the land to which this by-law applies increases the need for the service designated in section 7.

Multiple Approvals

6. (1) The Development Charges shall not be imposed on land subject to this by-law more than once even though two or more of the actions described in section 5(1) are required before the land can be developed.
- (2) Notwithstanding section 6(1), if two or more of the actions described in section 5 occur at different times, additional Development Charges shall be imposed, if the subsequent action has the effect of increasing the need for the service designated in Section 7.

Designation of Service

7. (1) For the purposes of this by-law, the service for which Development Charges are imposed under Part II of this by-law is the sanitary sewerage service.
- (2) The components of the service designated in section 7(1) are described on Schedule "C".

Amount of Development Charges

8. (1) Subject to the provisions of this by-law, a Development Charge of \$12,701.00 per hectare shall be imposed upon Residential uses and Non-Residential uses of lands, buildings or structures in the Carruthers Creek Development Area.
- (2) The Development Charges described in section 8(1) shall be calculated in the case of Residential and Non-Residential Development, based upon the number of Net Hectares of Land related to the Development.

Exemptions

9. (1) In this section,
- (i) "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;
 - (ii) "other residential building" means a residential building not in another class of residential building described in this subsection.
 - (iii) "semi-detached or row dwelling" means a residential building consisting of one dwelling unit having one or two vertical walls, but no other parts, attached to another structure;
 - (iv) "single detached dwelling" means a residential building consisting of one dwelling unit and not attached to another structure.
- (2) Subject to subsections 9(3) and 9(4), development charges shall not be imposed in respect to:

- (i) the issuance of a building permit not resulting in the creation of an additional dwelling unit;
 - (ii) the enlargement of an existing dwelling unit;
 - (iii) the creation of one or two additional dwelling units in an existing single detached dwelling;
 - (iv) the creation of one additional dwelling unit in a semi-detached dwelling, a row dwelling, or any other residential building.
- (3) Notwithstanding subsection 9(2)(c), development charges shall be imposed in accordance with section 8 if the total gross floor area of the additional one or two dwelling units in the existing single detached dwelling exceeds the gross floor area of the existing dwelling unit.
- (4) Notwithstanding subsection 9(2)(d), development charges shall be imposed in accordance with section 8 if the additional dwelling unit has a gross floor area greater than:
- (i) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and
 - (ii) in the case of any other residential building, the gross floor area of the smallest dwelling unit already contained in the residential building.

PART III

ADMINISTRATION

Payment of Development Charge

10. Development Charges with respect to any Non-Residential, Residential or Mixed-Use Development, adjusted in accordance with section 14 of this by-law to the date of payment, are payable in full on the earlier of:
- (a) the date of entering into a subdivision agreement under Section 51 of the *Planning Act*; or
 - (b) the issuing of a permit under the *Building Code Act, 1992* in relation to such Development.

Payment by Money

11. Payment of the Development Charges shall be by cash or by certified cheque.

No Refunds Arising out of Credits

12. Notwithstanding anything in this by-law to the contrary, whenever a credit is allowed against the Development Charges otherwise payable pursuant to this by-law and such credit(s) exceeds the amount of the Development Charges payable pursuant to this bylaw, no further credit(s) shall be allowed and no refund shall be payable.

Front-Ending Agreement

13. Council, from time to time, and at any time, may enter into front-ending agreements in accordance with the Act.

Indexing

14. The Development Charges imposed by this by-law shall be adjusted annually, without amendment to this by-law, as of the 1st day of July, 2009, and on each successive July 1st date in accordance with the Statistics Canada Quarterly,

Construction Price Statistics, catalogue number 62-007, for the most recently available annual period ending March 31.

Schedules

15. The following schedules to this by-law form an integral part thereof:
- Schedule A — Description of Carruthers Creek Development Area
 - Schedule B — Map Showing Boundary of Carruthers Creek Development Area
 - Schedule C — Components of Service Designated in Section 7

Date By-law in Force

16. This by-law shall come into force on July 1, 2008.

Date By-law Expires

17. This by-law will expire five years from the date it comes into force, unless it is repealed at an earlier date by a subsequent by-law.

Repeal

18. By-law No. 47-2003 is hereby repealed effective on the date this by-law comes into force.

Registration

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

Severability

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

Short Title

21. This By-law may be cited as the Regional Municipality of Durham Carruthers Creek Development Area Sanitary Sewerage Development Charges By-law, 2008.

BY-LAW read and passed this 18th day of June 2008.


Roger Anderson, Regional Chair


P. M. Madill, Regional Clerk

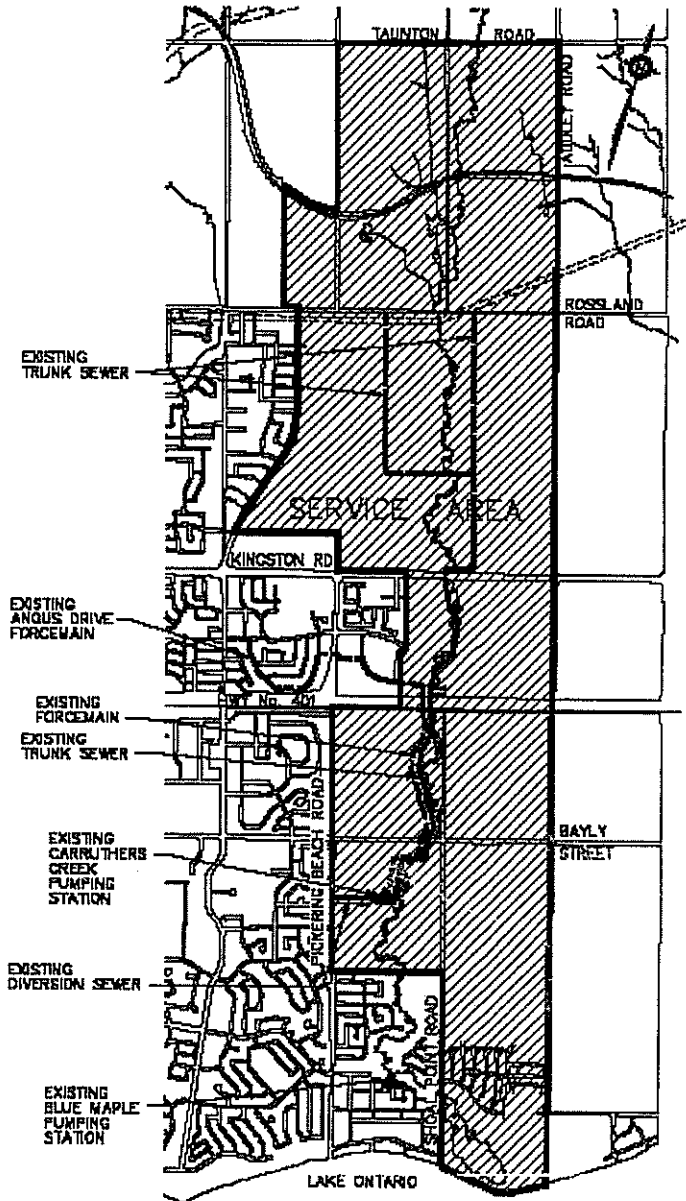
SCHEDULE "A"

DESCRIPTION OF CARRUTHERS CREEK DEVELOPMENT AREA

The Carruthers Creek Development Area is the area, generally, bounded by Lake Ontario to the south, Audley Road to the east, Taunton Road to the north, and Pickering Beach Road, Harwood Avenue and Salem Road to the west, all in the Town of Ajax, and as more specifically shown on the map attached as Schedule B.

SCHEDULE "B"

MAP SHOWING BOUNDARY OF CARRUTHERS CREEK DEVELOPMENT AREA



SCHEDULE B
CARRUTHERS CREEK DEVELOPMENT AREA

SCHEDULE "C"

COMPONENTS OF SERVICE DESIGNATED IN SECTION 7

1. Angus Drive Forcemain (Construction)
2. Truck Sanitary Sewer and Forcemain (Design Only)
3. Carruthers Sanitary Sewage Pumping Station (Design Only)
4. Blue Maple Pumping Station (Expansion)
5. Letter of Credit Fees (Design)
6. Letter of Credit Fees (Construction)
7. Truck Sanitary Sewer and Forcemain (Construction)
8. Diversion Sewer @ Emperor Street (Construction)
9. Carruthers Sanitary Sewage Pumping Station (Construction)
10. Letter of Credit Fees (Construction)