

***note: portions in italics are policy decisions not yet approved by Council*

BY-LAW 2014-**

**A BY-LAW OF THE CITY OF GREATER SUDBURY
WITH RESPECT TO DEVELOPMENT CHARGES**

WHEREAS section 2(1) of the *Development Charges Act, 1997* (hereinafter called “the *Act*”) enables the Council of a municipality to pass By-Laws for the imposition of development charges against land within the Municipality for increased capital costs required because of the need for municipal Services arising from development in the area to which the By-Law applies;

AND WHEREAS the Council of the City of Greater Sudbury, at its meeting of ***, approved a report dated **, titled *Development Charges Background Study, City of Greater Sudbury*, prepared by Hemson Consulting Ltd. in accordance with the directive of Council;

AND WHEREAS the Council has given Notice in accordance with Section 12 of the *Act* of its development charges proposal and held a public meeting on May 6th, 2014;

AND WHEREAS the Council has heard all persons who applied to be heard in objection to, or in support of, the development charges proposal at such public meeting, and provided for written communications to be made;

AND WHEREAS the Council has given said communications due consideration, has made any necessary revisions to the *City of Greater Sudbury Development Charges Background Study* as a result of those communications, and has determined that no further public meetings are required in respect of the background study;

AND WHEREAS the Council in approving the said report directed that development charges be imposed on land under development or redevelopment within the geographical limits of the City as hereinafter provided;

NOW THEREFORE the Council of the City of Greater Sudbury enacts as follows:

Definitions

1. In this By-Law:

“Act” means the *Development Charges Act, 1997*, S.O. 1997, c.27, and regulations thereunder, as amended or replaced from time to time;

“Accessory” means a use, separate Building or Structure, which is usually incidental, subordinate, exclusively devoted to and located on the same lot as the principal use, Building or Structure and, in the case of a Building or Structure, may or may not be attached to the main building on the same lot;

“Affordable Housing Project” means a housing project which targets low income households by providing affordable rent levels, provided:

- (a) the initial and on-going annual affordable project rents, have been set and/or approved by the City’s Housing Services department, where affordable rent must be demonstrated by showing the initial rent setting is consistent with any one of the following:
 - (i) the definition of affordable rental as provided in the Provincial Policy Statement; OR*
 - (ii) 80% of the Average Market Rent as determined by CMHC in its latest survey of the local market; OR*
 - (iii) rent levels set in accordance with an affordable housing program recognized by the City’s Housing Services department (i.e. Canada / Ontario Affordable Housing Program); and**
- (b) occupant maximum income by unit type have been set and/or approved by the City’s Housing Services department; and*
- (c) a housing agreement between the City and property Owner has been registered on title in priority to any charge or encumbrance, prior to the issuance of the building permit or where applicable, on rezoning of the property, to ensure that the affordability terms established by the City remain in effect and providing that in exchange for the Development Charge exemption, the City will specify rental rates and occupant income by unit type in perpetuity and providing for penalties and remedies on default;*

“Benefitting Area” means an area defined by a map, plan or legal description in a Front-Ending Agreement as an area that will receive a benefit from the construction of one or more Services;

“Board of Education” means a board as defined in the *Education Act*, R.S.O. 1990, c. E.2, as amended or replaced from time to time;

“Building or Structure” means a structure occupying an area greater than 10 square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof, but does not include a Farm Building or an exterior storage tank;

“Building Code Act” means the *Building Code Act 1992*, S.O. 1992, c.23, as amended or replaced from time to time and includes regulations thereunder;

“Business Improvement Area” means a geographic area in the City governed by a board of management to provide certain business promotion and improvement functions within that area;

“Capital Cost” means costs incurred or proposed to be incurred by the City or a Local Board directly or by others on behalf of, and as authorized by, the City or a Local Board:

- (i) to acquire land or an interest in land including a leasehold interest;
- (ii) to improve land;
- (iii) to acquire, lease, construct or improve buildings and structures provided that only the capital component of costs to lease anything or to acquire a leasehold interest is included;
- (iv) to acquire, lease, construct or improve facilities including,
 - 1. rolling stock with an estimated future life of seven years or more;
 - 2. furniture and equipment, other than computer equipment, and
 - 3. materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, R.S.O. 1990, c.P.44;
- (v) to undertake studies in connection with any matter under the Act and any of the matters in clauses (i) to (iv);
- (vi) for the development charge background study under s.10 of the Act; or
- (vii) for interest on money borrowed to pay for costs in (i) to (iv);

“CFO” means the City’s Chief Financial Officer /Treasurer and includes her or his authorized designate;

“Chief Building Official” means the person appointed as the City’s Chief Building Official pursuant to the *Building Code Act*, and includes his or her authorized designate;

“City” means the municipal corporation of the City of Greater Sudbury or the geographic area, as the context requires;

“Council” means the Council of the City of Greater Sudbury,

“Designated Exempt Area” includes each area shown in Schedules “E-1” to “E-9” of this By-law *and includes any Business Improvement Area approved by Council after the effective date of this By-law*;

“Development” means the construction, erection or placing of one or more Buildings or Structures on land or the making of an addition or alteration to a Building or Structure that has the effect of increasing the size or usability thereof, and includes Redevelopment;

“Development Charge” means a charge imposed against land in the City under this By-Law;

“Dwelling Unit” means any part of a Residential or Mixed-Use Building or Structure with one or more habitable rooms designed or intended to be used as a domestic establishment in which one or more persons may sleep and in which sanitary facilities and a separate kitchen are provided for the exclusive use of such person or persons;

“Farm Buildings” means farm buildings as defined in the *Building Code Act*;

“Front-End Payment” means a payment made by an Owner pursuant to a Front-Ending Agreement to cover the net Capital Costs of the Services designated in the agreement that are required to enable the land to be developed;

“Front-Ending Agreement” means an agreement made under Section 44 of the Act between the City and any or all Owners within a Benefitting Area providing for Front-End Payments by an Owner or Owners or for the installation of Services by an Owner or Owners or any combination thereof;

“Garden Suite” means a one-unit detached residential structure, containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable;

“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;

“Growth Related Net Capital Cost” means the portion of the net capital cost of Services that is reasonably attributable to the need for such net capital cost that results or will result from Development in all or a defined part of the City;

“Industrial” means lands, Buildings or Structures used or designed or intended for use for or in connection with:

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

“Local Board” means a school board, municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, board 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 a municipality or of two or more municipalities or parts thereof, but does not include a school district school board or a school authority as those terms are used in the *Education Act*, R.S.O. 1990, c. E.2;

“Local Services” means those services, facilities or things which are under the jurisdiction of the City and are within the boundaries of, abut or are necessary to connect lands to services and an application has been made in respect of the lands under Sections 41, 51 or 53 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended or replaced from time to time;

“Mixed-Use” means lands, Buildings or Structures used, designed or intended to be used for both Residential and Non-Residential Uses;

“Municipal” refers to something owned by the City;

“Multiple Dwelling” means a Residential Building or the Residential portion of a Mixed-Use Building containing one or more Dwelling Units, but does not include a Single Detached Dwelling or a Semi-Detached Dwelling;

“Non-Residential Use” means land, Buildings or Structures or portions thereof used, or designed or intended to be used for a use other than for a Residential Use;

“Non-Industrial Use” means land, Buildings or Structures or portions thereof used, or designed or intended to be used for a use other than for a Residential Use or an Industrial Use;

“Official Plan” means the City of Greater Sudbury Official Plan and any amendments thereto together with any subsequent related Plan or Plans enacted;

“Owner” means the registered owner of the property and includes the authorized agent in lawful control of the property;

“Planning Act” means the *Planning Act*, R.S.O. 1990, c.P.13, as amended and includes regulations thereunder;

“Protracted” means in relation to a Temporary Building or Structure the persistence of its construction, erection, placement on land, alteration or, of an addition to it, for a continuous period exceeding eight months;

“Redevelopment” means the construction, erection or placing of one or more Buildings or Structures on land where all or part of a Building or Structure has

previously been demolished on such land, or changing the use of a Building or Structure, or part thereof, from Residential to Non-Residential or from Non-Residential to Residential or from Industrial to Non-Industrial or Non-Industrial to Industrial;

“Residential Use” means the land, Buildings or Structures or portions thereof used, designed or intended to be used as living accommodation for one or more individuals and “Residential” has a similar meaning;

“Semi-Detached Dwelling” means one of a freestanding pair of Dwelling Units attached together horizontally in whole or in part above grade and divided vertically from each other by a common wall extending at least one story above finished grade;

“Service Areas” in the City of Greater Sudbury include:

- (a) “Water Service Area” means, within the City of Greater Sudbury,
 - (i) properties that are connected to the Municipal water services but are not located within 500 feet (152.5 m) of the Municipal wastewater services as they may exist from time to time;
 - (ii) properties that abut streets, easements, or rights-of-way upon which Municipal water services have been placed or are placed from time to time but are not located with 500 feet (152.5 m) of the Municipal wastewater services as they may exist from time to time; and
 - (iii) properties that are located with 500 feet (152.5 m) of Municipal water services as they may exist from time to time but are not located within 500 feet (152.5 m) of Municipal wastewater services as they may exist from time to time;
- (b) “Water and Wastewater Service Area” means, within the City of Greater Sudbury:
 - (i) properties that are connected to the Municipal wastewater and water services;
 - (ii) properties that abut on streets, easements or rights-of way upon which Municipal wastewater and water service have been placed or are placed from time to time; and
 - (iii) properties that are located within 500 feet (152.5 m) of Municipal wastewater and water services as they may exist from time to time, and
- (c) “Wastewater Service Area” means, within the City of Greater Sudbury:
 - (i) properties that are connected to the Municipal wastewater services but are not located within 500 feet (152.5 m) of the Municipal water services as they may exist from time to time;
 - (ii) properties that abut streets, easements, or rights-of-way upon

which Municipal wastewater services have been placed or are placed from time to time but are not located within 500 feet (152.5 m) of the Municipal water services as they may exist from time to time; and

- (iii) properties that are located within 500 feet (152.5 m) of Municipal wastewater services as they may exist from time to time but are not located with 500 feet (152.5 m) of Municipal water services as they may exist from time to time;

“Service Standards” means the prescribed level of services on which the Schedule of Charges in Schedules “B”, “C”, and “D” are based;

“Services” (or “Service”) means those Services designated in Schedule “A” to this By-Law or specified in an agreement made under Section 44 of the Act;

“Servicing Agreement” means an agreement between a land Owner and the City relating to the provision of Municipal services to specified lands within the City;

“Single Detached Dwelling” means a separate Building or Structure containing only one Dwelling Unit;

“Temporary Building or Structure” means a Building or Structure constructed or erected or placed on land for a continuous period not exceeding eight months, or an addition or alteration to a Building or Structure that has the effect of increasing the total floor area thereof for a continuous period not exceeding eight months;

“Total Floor Area” means in relation to Non-Residential Building or Structure the sum total of the total areas of all floors in a Building or Structure, whether at, 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 two uses, or from the outside edge of a floor where the outside edge of the floor does not meet an exterior or common wall, and includes the floor area of a mezzanine, atrium or air-supported structure, and the space occupied by interior wall partitions, as defined in the Building Code Act; and, where a Building or Structure does not have any walls, the Total Floor Area of the Building or Structure shall be the total of the area of all floors, including the ground floor, that are directly beneath the roof of the Building or Structure; and

“Zoning By-law” means the Zoning by-law or by-laws passed under Section 34 of the *Planning Act* and in force and effect in the City.

Schedule of Development Charges

2.-(1) Subject to the provisions of this By-Law, Development Charges against land shall be calculated and collected in accordance with the rates set out in Schedules “B”, “C”, and “D” which relate to the Services set out in Schedule “A”.

(2) The Development Charge with respect to the use of any land, Buildings or Structures shall be calculated as follows:

- (a) in the case of (i) Residential Development, or (ii) the Residential portion of a Mixed-Use Development, based upon the number and type of Dwelling Units and calculated at the applicable rate set out in Schedule B;
- (b) in the case of (i) Industrial Development or (ii) the Development of the Industrial portion of a Mixed-Use Development, based upon the Total Floor Area of such Development and calculated at the applicable rate set out in Schedule C; and
- (c) in the case of (i) Non-Industrial Development, or (ii) the Non-Industrial portion of a Mixed-Use Development, based upon the Total Floor Area of such Development and calculated at the applicable rate set out in Schedule D.

(3) Council hereby determines that the Development of land, Buildings or Structures for Residential Use, Industrial Use and Non-Industrial Use have required or will require the provision, enlargement, expansion or improvement of the Services referenced in Schedule "A".

Applicable Lands/ Compliance with Section 6

3.-(1) Subject to subsections 3(2) and 3(3), this By-Law applies to all lands in the City, whether or not the land or use is exempt from taxation under Section 3 of the *Assessment Act*, R.S.O. 1990, c.A.31.

(2) This By-law applies to all lands in the City subject to the following:

- (a) pursuant to the Service Area definitions in this By-law, Development Charges for Municipal wastewater Services, as identified on Schedules "B", "C" and "D" of this By-law, will not be levied against Development of land that will not receive wastewater services from the City at the time of Development; and
- (b) Pursuant to the Service Area definitions in this By-law, Development Charges for Municipal water Services, as identified on Schedules "B", "C" and "D" of this By-law, will not be levied against Development of land that will not receive water services from the City at the time of Development.

(3) For the purpose of complying with Section 6 of the Act;

- (a) the area to which this By-Law applies shall be the area described in

- subsection 3(1) above;
- (b) the rules developed under paragraph 9 of subsection 5(1) of the Act for determining if a Development Charge is payable in a particular case and for determining the amount of the charge shall be as set forth in sections 2 through 18 of this By-Law;
- (c) the rules for exemptions and partial exemptions shall be as set forth in subsection 3(2) and sections 5, 6, 7 and 8; of this By-law;
- (d) the rules respecting Redevelopment of land shall be as set forth in section 9 of this By-Law;
- (e) the rules respecting indexing of Development Charges shall be as set out in section 22 of this By-law; and
- (f) there shall be no period of phasing in of Development Charges.

Designation of Services

4.-(1) It is hereby declared by Council that all Development of land within the area to which this By-law applies will increase the need for Services.

(2) Development Charges shall be imposed and reserve funds established or continued for the categories of Services designated on Schedule "A" of this By-law to pay for the increased Capital Costs required because of increased needs for Services arising from Development.

Exemptions and Partial Exemption

5.-(1) This By-Law shall not apply to land that is owned by and used for the purposes of:

- (a) a Board of Education;
- (b) any municipality or Local Board thereof;
- (c) a consent (boundary line adjustment) under Section 53 of the *Planning Act* where no new building lot is created;
- (d) any college created pursuant to the *Ontario Colleges of Applied Arts and Technology Act, 2002*, S.O. 2002, c. 8, Sched. F.; or
- (e) a Garden Suite, provided that the Garden Suite is removed within ten years or such longer period as authorized by By-law pursuant to section 39 of the *Planning Act*.

(2) This By-Law shall not apply to:

- (a) land, Buildings or Structures that are owned by a university and used for the university's academic or research purposes; or

- (b) *land, Buildings or Structures used for the purpose of Affordable Housing, where the exemption from the payment of Development Charges is specifically authorized by resolution of Council.*

(3) Where land, Buildings or Structures are owned by a university and used for purposes other than the university's academic or research purposes, a 50% exemption from Development Charges otherwise payable under this By-law shall be applied.

(4) This By-Law shall not apply to permitted uses within Designated Exempt Areas.

Temporary Building Exempt / Unless Protracted

6. This By-law shall not apply to Temporary Buildings or Structures, however, should a Temporary Building or Structure become Protracted, it shall be deemed not to be nor ever to have been a Temporary Building or Structure and the Development Charges required to be paid under this By-law shall become payable on the date that the Temporary Building or Structure becomes Protracted.

Rules With Respect to Exemptions for Intensification of Existing Housing

7.-(1) This By-Law shall not apply to that category of exempt Development described in subsection 2(3) of the Act, and Section 2 of O. Reg. 82/98, namely:

- (a) the enlargement of an existing Dwelling Unit;
- (b) the creation of one or two additional Dwelling Units in an existing Single Detached Dwelling where the total Residential Gross Floor Area of the Dwelling Unit or Units created does not exceed the Residential Gross Floor Area of the Dwelling Unit already in the Building; or
- (c) the creation of one additional Dwelling Unit in an existing Semi-Detached Dwelling where the total Residential Gross Floor Area of the additional Dwelling Unit created does not exceed the Residential Gross Floor Area of the Dwelling Unit already in the Building; or
- (d) the creation of one additional Dwelling Unit in any other existing Residential building other than a Single Detached Dwelling or a Semi-Detached Dwelling provided the Residential Gross Floor Area of the additional Dwelling Unit does not exceed the Residential Gross Floor Area of the smallest existing Dwelling Unit already in the building.

(2) Notwithstanding subsection 7(1)(b), Development Charges shall be calculated and collected in accordance with Schedule "B" where the total Residential Gross Floor Area of the additional one or two Dwelling Units is greater than the Gross Floor Area of

the existing Dwelling Unit in the Single Detached Dwelling.

(3) Notwithstanding subsection 7(1)(c), Development Charges shall be calculated and collected in accordance with Schedule “B” where the additional Dwelling Unit in the Semi-Detached Dwelling has a Residential Gross Floor Area greater than the Gross Floor Area of the Dwelling Unit already in the Semi-Detached Dwelling.

(4) Notwithstanding subsection 7(1)(d), Development Charges shall be calculated and collected in accordance with Schedule “B” where the additional Dwelling Unit in the Residential building other than a Single Detached Dwelling or a Semi-Detached Dwelling has a Residential Gross Floor Area greater than the Gross Floor Area of the smallest Dwelling Unit already in that Residential building.

(5) Where a Development Charge has been paid in respect of a Residential Building or Structure, and the Development is subsequently revised within the same building envelope but with a different distribution of unit types such that a revised building permit and new calculation of Development Charges payable is required, the calculation of the amount of Development Charges payable will be made in respect of such revised building permit as follows:

- (a) Where there is an increase in the number of any type of Dwelling Unit, the Development Charges payable will be calculated by multiplying the number of such Dwelling Units so increased by the Development Charge rate then in effect according to the type of Dwelling Unit; and
- (b) Where there is a decrease in the number of any type of Dwelling Unit, the development charges payable will be reduced by multiplying the number of such Dwelling Units so reduced by the Development Charges rate that was in effect and collected for such unit type upon the issuance of the initial building Permit for the Development.

Rules With Respect to an Industrial Expansion Exemption

8.-(1) For the purposes of calculating Development Charges pursuant to section 2, 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 is the following:

- (a) if the Gross Floor Area is enlarged by 50 per cent or less, the amount of the Development Charge in respect of the enlargement is zero; or
- (b) if the Gross Floor Area is enlarged by more than 50 per cent, Development Charges are payable on the amount by which the enlargement exceeds 50 per cent of the Gross Floor Area before the

enlargement.

- (2) In this section, for greater certainty in applying the exemption herein:
- (a) the Gross Floor Area of an existing Industrial building is enlarged where there is a bona fide physical and functional increase in the size of the existing Industrial building;
 - (b) for the purpose of determining any enlargement, the existing Industrial building will be its Gross Floor Area as of the effective date of this By-Law (in this section "Original Gross Floor Area");
 - (c) the maximum exemption permitted during the term of this By-Law will be 50% of the Original Gross Floor Area irrespective of the number of enlargements or expansion of the Gross Floor Area that take place over the course of the term of this By-Law so that any enlargement beyond 50% of the Original Gross Floor Area during the term of this By-Law will be subject to the Development Charge herein.
 - (d) an expansion must be attached to and a bona fide extension of the existing building, and "attached" shall not mean or include a tunnel, bridge, passageway, shared below grade connection (whether by footing, foundation, passageway, or otherwise), breezeway, shared roof connection or shared parking facility.

Rules With Respect to the Redevelopment of Land

9.-(1) Where, as a result of the Redevelopment of land, a Building or Structure has been 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 the Residential portion of a Mixed-Use Building or Structure, an amount calculated by multiplying the applicable Development Charge under section 2 of this By-Law by the number, according to type of Dwelling Unit that have been demolished or converted to another principal use;
- (b) In the case of an Industrial Building or Structure or the Industrial portion of a Mixed-Use Building or Structure, an amount calculated by multiplying the applicable Development Charge under section 2 of this By-Law by the Industrial Gross Floor Area that has been demolished or converted to another principal use; and

- (c) in the case of a Non-Industrial Building or Structure or the Non-Industrial portion of a Mixed-Use Building or Structure, an amount calculated by multiplying the applicable Development Charges under section 2 of this By-Law by the Non-Industrial Gross Floor Area that has been demolished or converted to another principal use.
- (2) The amounts of any reduction under subsection 9(1) shall not exceed in total, the amount of the Development Charges otherwise payable with respect to the Redevelopment.
- (3) Despite subsection 9(1), no reduction in the Development Charges otherwise payable shall be granted in the case of the demolition of all or part of a Building or Structure unless the demolition for which the reduction is sought occurred no more than *five (5) years* prior to the issuance of the building permit for the Redevelopment, and a demolition permit issued to authorize the demolition.
- (4) Where as part of a Redevelopment a building permit is issued for a new Building or Structure (the “New Building”) to be erected on a site and the New Building is constructed prior to the demolition of an existing Building or Structure on the same site and provided that the existing Building or Structure is demolished pursuant to a demolition permit within *five (5) years* from the issuance of the building permit for that New Building, the Owner may apply to the Chief Building Official in writing for a refund (excluding interest) of all or part of the Development Charges actually paid on the issuance of the building permit for the New Building. The amount of the refund shall be calculated at the rates paid for the Development Charges on the issuance of the building permit for the New Building, for the number and type of Residential Dwelling Units demolished or the Total Floor Area of the Non-Residential portion of the Building or Structure or part thereof demolished.
- (5) The reduction of Development Charges otherwise authorized under subsection 9(1) shall relate only to the land, including any parcel subject to the same site plan approval for the proposed development, upon which the Building or Structure which was demolished or converted was situate and is not transferable to another parcel of land.
- (6) Any reduction in the Development Charges otherwise payable, authorized under subsection 9(1) and any refund authorized under subsection 9 (4) shall apply only where the use of the Building or Structure that has been demolished or converted to another use has been legally established pursuant to the City’s zoning bylaw and all building statutes and regulations related to the construction of buildings.
- (7) For the purposes of this section, Dwelling Units or Gross Floor Area accidentally destroyed by fire shall be deemed to have been demolished under a demolition permit issued on the date of the fire. No refund shall be paid or reduction applied to Development Charges otherwise payable unless the Owner has obtained a Demolition Permit for the Dwelling Units or Gross Floor Area accidentally destroyed by fire.

Onus

10. The onus is on the Owner to produce evidence to the satisfaction of the Chief Building Official which establishes that the Owner is entitled to any exemption from, or reduction of, or credit against or any refund of Development Charges otherwise payable under this By-law.

Approval for Development

11-(1) Subject to subsection 11(2), Development Charges shall apply to, and shall be calculated and collected in accordance with the provisions of this By-Law on land to be developed where, the Development requires any one or more of the following:

- (a) the passing of a zoning By-Law or 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*, 1998, S.O. 1998 c. 19; or
 - (g) the issuing of a permit under the *Building Code Act* in relation to a Building or Structure.
- (2) Subsection (1) shall not apply in respect of:
- (a) Local Services installed or paid for by the Owner within a plan of subdivision as a condition of approval under Section 51 of the *Planning Act*;
 - (b) Local Services installed or paid for by the Owner within the area to which the Development relates; or
 - (c) Local Services installed at the expense of the Owner as a condition of approval under Section 53 of the *Planning Act*.

Local Service Installation

12. Nothing in this By-Law prevents Council from requiring as a condition of any approval or agreement for Development under the *Planning Act*, including sections 41, 51 or 53 of the *Planning Act*, that the Owner, at his or her own expense, shall install such Local Services within the area to which the Development relates, or that the Owner pay for local connections to water mains, wastewaters and/or storm drainage facilities, as Council may require.

Multiple Charges

13.(1) Where two or more of the actions described in subsection 11(1) of this By-Law are required before land to which a Development Charge applies can be developed, only one Development Charge shall be calculated and collected in accordance with the provisions of this By-Law.

(2) Notwithstanding subsection 13(1), if two or more of the actions described in subsection 11(1) occur at different times, and if the subsequent action has the effect of increasing the need for Municipal Services as designated in Schedule "A", an additional Development Charge on the additional Residential Dwelling Units and/or the additional Gross Floor Area for Industrial and Non-Industrial uses shall be calculated and collected in accordance with the provisions of this By-Law.

Credit for Services

14. Despite subsection 2(1) and section 16, Council may by agreement, give a credit towards a Development Charge in exchange for work that relates to a Service for which a Development Charge is imposed under this By-law, in accordance with sections 38, 39, 40 and 41 of the Act. No such credit shall exceed the total Development Charges otherwise payable.

Front-Ending Agreements

15. The City may enter into agreements under Section 44 of the Act as it sees fit.

Timing of Calculation and Payment / Section 27 Agreements

16.-(1) Development Charges shall be calculated and payable in full in cash, certified cheque, bank draft or by provision of Services as may be agreed upon, or by credit granted by the Act, on the date that the first building permit is issued in relation to a Building or Structure on land to which a Development Charge applies.

(2) Where Development Charges apply to land in relation to which a building permit

is required, the building permit shall not be issued until the Development Charges have been paid in full except as otherwise specifically provided to the contrary herein.

(3) If a Development does not require a building permit but does require one or more of the approvals described in section 11, then the Development Charge shall nonetheless be payable in respect of any increased or additional Development permitted by such approval required for the increased or additional Development being granted.

(4) Notwithstanding subsection 16(1) upon request of the CFO, Council may, in its sole discretion, authorize an agreement with the Owner in accordance with Section 27 of the Act to permit on such terms as Council may require, the payment of the Development Charge before or after it is otherwise payable. Without limiting the generality of the forgoing, Council may require the Owner to pay interest from the date of issuance of the building permit until payment in full of the Development Charges and to provide security for the Owner's obligations under the agreement. Where an agreement has been entered into, then despite subsection 16(2), the building permit may issue before payment of the applicable Development Charges.

Changes to Building Design – Residential

17. Where a Development Charge has been paid in respect of a Residential Building or Structure, and the Development is subsequently revised within the same building envelope but with a different distribution of unit types such that a revised building permit and new calculation of Development Charges payable is required, the calculation of the amount of Development Charges payable will be made in respect of such revised building permit as follows:

- (a) Where there is an increase in the number of any type of Dwelling Unit, the Development Charges payable will be calculated by multiplying the number of such Dwelling Units so increased by the Development Charge rate then in effect according to the type of Dwelling Unit; and
- (b) Where there is a decrease in the number of any type of Dwelling Unit, the Development Charges payable will be reduced by multiplying the number of such Dwelling Units so reduced by the Development Charges rate that was in effect and collected for such unit type upon the issuance of the initial building permit for the Development.

Changes to Building Design – Non-Residential

18. Where a Development Charge has been paid in respect of a Non-Residential Building or Structures, and the Development is subsequently revised within the same building envelope but such that a revised building permit and new calculation of Development Charges payable is required, the calculation of the amount of

Development Charges payable will be made in respect of such revised building permit as follows:

- (a) Where there is an increase in the amount of Non-Residential Total Floor Area, the Development Charges payable will be calculated by multiplying the amount of Total Floor Area so increased by the Development Charge rate then in effect; and
- (b) Where there is a decrease in the amount of Non-Residential Total Floor Area, the Development Charges payable will be reduced by multiplying the amount of Total Floor Area so reduced by the Development Charge rate that was in effect and collected upon issuance of the initial building permit for the Development;

provided that in no case shall any refund be provided in an amount greater than the amount of Development Charges paid upon issuance of such initial Building Permit

By-law Registration

19. A certified copy of this By-Law may be registered in the By-law Register in the Land Registry Office (No. 53).

Reserve Fund(s)

20. The City of Greater Sudbury shall establish Reserve Funds as follows:

- (a) Monies received from payment of Development charges shall be maintained in separate reserve funds for each service as detailed in Schedule "A" to this By-law. Funds shall be used only in accordance with the provisions of Section 35 of the Act.
- (b) The CFO shall, in each furnish to Council a statement in respect of the reserve funds established hereunder for the prior year, containing the information set out in Sections 12 and 13 of O. Reg. 82/98.
- (c) Borrowing from the reserve funds, or from one designated Municipal service fund to another, for Municipal financial purposes will be permitted as authorized from time to time by resolution or By-Law of Council provided interest is paid in accordance with the Act and the regulations thereto, and in particular section 36.
- (d) Refunds may be made from the applicable reserve funds in accordance with this By-law.

Refunds

21.-(1) Where this By-Law or any Development Charge prescribed thereunder is amended or repealed either by order of the Ontario Municipal Board or by Council, the

CFO shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal.

(2) Any refund of Development Charges shall be paid to the person who is the registered Owner of the land, Building or Structure on the date on which the refund is paid.

(3) Refunds that are required to be paid under subsection 21(1) or section 25 shall be paid with interest to be calculated as follows:

- (a) interest shall be calculated from the date on which the overpayment was collected to the date on which the refund is paid;
- (b) the refund shall include the interest owed under this section; and
- (c) interest shall be paid at the Bank of Canada rate in effect on the date of enactment of this By-Law.

(4) Interest shall not be payable on any refund other than a refund required to be paid under subsection 21(1) or section 25.

(5) Where a building permit is lawfully revoked by the Chief Building Official the Owner may apply in writing to the Chief Building Official for a refund of the Development Charges actually paid pursuant to the said building permit.

(6) In the event that a building permit is lawfully revoked by the Chief Building Official a subsequent application submitted for a building permit for a Building or Structure on the same land will be subject to the Development Charge rate in effect as of the date the building permit issues under the subsequent application.

Development Charge Schedule Indexing

22. The Development Charges referred to in Schedule "B", "C", and "D" shall be adjusted annually, without amendment to this By-Law, commencing on *July 1st, 2015, and annually thereafter on July 1st* in each year while this By-Law is in force, in accordance with the most recent twelve-month change reflected in the Statistics Canada Quarterly, "Construction Price Statistics" (CPS), catalogue number 62-007 and the CFO shall advise Council of such adjustments.

By-law Administration

23. This By-Law shall be administered by the CFO and the Chief Building Official.

Complaints

24-(1) The Hearing Committee is appointed pursuant to Section 23.1 of the *Municipal Act, 2001* to act in the place and stead of Council to deal with complaints under Section 20 of the Act.

(2) A person required to pay a Development Charge or the person's agent, may complain to the Hearing Committee that:

- (a) the amount of the Development Charge was incorrectly determined; or
- (b) whether a credit is available to be used against the Development Charge or the amount of the credit or the Service with respect to which the credit was given, was incorrectly determined; or
- (c) there was an error in the application of this By-law.

(3) A complaint may not be made under subsection 24(2) above later than 90 days after the day that the Development Charge or any part of it is payable.

(4) The complaint must be in writing and must set the complainant's name, the address where notices can be given to the complainant and the reasons for the complaint.

(5) Where the City Solicitor in consultation with the CFO and Chief Building Official determines that a request for a hearing as filed does not comply with the requirements of subsection 24(2) or 24(3) above or with the Act, the Clerk shall forthwith notify the complainant in writing that no hearing will be scheduled and specify the deficiency.

(6) The City Clerk shall fix a day and time for a hearing before the Hearing Committee and mail a notice of the hearing to the complainant at least 14 days before the hearing date.

(7) The Hearing Committee shall hold a hearing into a complaint made under subsection 24(2) and 24(3) above and shall give the complainant an opportunity to make representations at the hearing.

(8) After hearing the evidence and submissions of the complainant, the Hearing Committee shall as soon as practicable, make a recommendation to Council on the merits of the complaint and Council may dismiss the complaint or rectify any incorrect determination or error that was properly the subject of the complaint.

Request for Review

25 Nothing herein prevents a person, prior to filing a complaint under subsection 24(1) of this By-law from making a request in writing to the Chief Building Official to review the calculation of the Development Charge for a reason under subsection 24(2). No such request shall be deemed to constitute a complaint to the Hearing Committee or relieve the person from complying with the process in section 24 should the person wish to file a complaint.

Conflict

26. Where a conflict exists between the provisions of this By-law and any agreement between the City and the Owner entered into pursuant to this By-law the provisions of such agreement shall prevail to the extent of the conflict.

Application of the Act

27. Any matter not otherwise provided for in this By-law shall be subject to the provisions of the Act.

Interpretation

28.-(1) Whenever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.

(2) References to items in the plural include the singular, as applicable.

(3) The words “include”, “including” and “includes” are not to be read as limiting the phrases or descriptions that precede them.

(4) Headings are inserted for ease of reference only and are not to be used as interpretation aids.

(5) Specific references to laws in the By-law are printed in italic font and are meant to refer to the current laws applicable with the Province of Ontario as at the time the By-law was enacted, as they are amended from time to time and include regulations thereunder.

(6) Any reference to periods of time, stated in numbers of days, shall be deemed applicable on the first business day after a Sunday or Statutory holiday if the expiration of the time period occurs on a Sunday or Statutory holiday.

(7) The obligations imposed by this By-law are in addition to obligations otherwise imposed by law or contract.

(8) Words which are not defined for the purposes of this By-law shall be read in their ordinary, everyday meanings.

(9) References to a whole include references to a part of the whole, whether or not so specified.

Severability

29-(1) If any section, subsection, part or parts of this By-law is declared by any court of law to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

(2) Nothing in this By-law relieves any person from complying with any provision of any Federal or Provincial legislation or any other By-law of the City.

Schedules to the By-law

30. The following schedules are attached to and form an integral part of this By-Law:

Schedule A -	Schedule of Municipal Services
Schedule B -	Schedule of Residential Development Charges
Schedule C -	Schedule of Industrial Development Charges
Schedule D -	Schedule of Non-Industrial Development Charges
Schedules E-1 to E-9	Designated Exempt Areas

Existing Development Charge By-law Repeal

31. By-Law 2009-200F is hereby repealed upon the coming into force of this By-Law.

(2) The repeal of the By-law does not affect the previous operation of any By-law so repealed; or affect any right, privilege, obligation or liability acquired, accrued, accruing, or incurred under the By-law so repealed.

Date By-law Effective and Expires

32.-(1) This By-Law shall come into force and effect on the 10th day of July, 2014.

(2) This By-Law shall continue in force and effect for a term not to exceed five years from the date of coming into force, unless it is extended by statute, regulation or By-law, or repealed at an earlier date.

Short Title

33. This By-Law shall be cited as the “Development Charges By-Law 2014”.

Read and Passed in Open Council this day of * , 2014

_____ Mayor

_____ Clerk

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SCHEDULE "A"
To By-law 2014-*

DESIGNATED MUNICIPAL SERVICES

1. General Government
2. Library Services
3. Fire Services
4. Police Services
5. Public Safety
6. Parks and Recreation
7. Cemetery Services
8. Ambulance Services
9. Transit Services
10. Emergency Preparedness
11. Roads and Related
12. Water Services
13. Wastewater Services
14. Drains and Stormwater

SCHEDULE 'B'
To By-law 2014-**

RESIDENTIAL DEVELOPMENT CHARGES PER DWELLING UNIT
For a SINGLE FAMILY DWELLING or a SEMI DETACHED DWELLING

Service	Charge per Dwelling Unit As of July 10, 2014
General Government	\$94
Library Services	792
Fire Services	354
Police Services	187
Public Safety	79
Parks and Recreation	2,602
Cemetery Services	9
Ambulance Services	110
Transit Services	503
Emergency Preparedness	207
Total General Services	\$4,937
Engineered Services	
Roads and Related	7,853
Water Services	900
Wastewater Services	2,900
Drains and Stormwater	573
Total Engineered Services	\$12,226
Total Development Charge – All Services	\$17,163
Total Development Charge – Excluding Water Services	\$16,263
Total Development Charge Excluding Wastewater Services	\$14,263
Total Development Charge excluding Water and Wastewater Services	\$13,363

NOTE:

The base Development Charge will be adjusted in accordance with the most recent twelve-month change reflected in the Statistics Canada Quarterly, "Construction Price Statistics" (CPS), catalogue number 62-007-XPB as of **July 1st** of each year.

SCHEDULE 'B' (Continued)
To By-law 2014-**

RESIDENTIAL DEVELOPMENT CHARGES PER DWELLING UNIT
MULTIPLE DWELLING

Service	Charge per Dwelling Unit As of July 10, 2014
General Government	\$55
Library Services	466
Fire Services	208
Police Services	110
Public Safety	46
Parks and Recreation	1,531
Cemetery Services	5
Ambulance Services	65
Transit Services	296
Emergency Preparedness	122
Total General Services	\$2,904
Engineered Services	
Roads and Related	4,621
Water Services	530
Wastewater Services	1,706
Drains and Stormwater	337
Total Engineered Services	\$7,194
Total Development Charge – All Services	\$10,098
Total Development Charge – Excluding Water Service	\$9,568
Total Development Charge Excluding Wastewater Service	\$8,392
Total Development Charge excluding Water and Wastewater Service	\$7,862

NOTE:

The base Development Charge will be adjusted in accordance with the most recent twelve-month change reflected in the Statistics Canada Quarterly, "Construction Price Statistics" (CPS), catalogue number 62-007-XPB as of **July 1st** of each year.

SCHEDULE 'C'
To By-law 2014-**

INDUSTRIAL DEVELOPMENT CHARGES
PER SQUARE FOOT

Service	Charge per Square Foot As of July 10, 2014
General Government	\$0.05
Library Services	0.00
Fire Services	0.20
Police Services	0.10
Public Safety	0.04
Parks and Recreation	0.00
Cemetery Services	0.00
Ambulance Services	0.06
Transit Services	0.28
Emergency Preparedness	0.11
Total General Services	\$0.84
Engineered Services	
Roads and Related	1.48
Water Services	0.50
Wastewater Services	1.61
Drains and Stormwater	0.32
Total Engineered Services	\$3.91
Total Development Charge – All Services	\$4.75
Total Development Charge – Excluding Water Services	\$4.25
Total Development Charge Excluding Wastewater Services	\$3.14
Total Development Charge excluding Water and Wastewater Services	\$2.64

NOTE:

The base Development Charge will be adjusted in accordance with the most recent twelve-month change reflected in the Statistics Canada Quarterly, "Construction Price Statistics" (CPS), catalogue number 62-007-XPB as of **July 1st** of each year.

SCHEDULE 'D'
To By-law 2014-**

NON - INDUSTRIAL DEVELOPMENT CHARGES
PER SQUARE FOOT

Service	Charge per Square Foot As of July 10. 2014
General Government	\$0.05
Library Services	0.00
Fire Services	0.20
Police Services	0.10
Public Safety	0.04
Parks and Recreation	0.00
Cemetery Services	0.00
Ambulance Services	0.06
Transit Services	0.28
Emergency Preparedness	0.11
Total General Services	\$0.84
Engineered Services	
Roads and Related	5.56
Water Services	0.50
Wastewater Services	1.61
Drains and Stormwater	0.32
Total Engineered Services	\$7.99
Total Development Charge – All Services	\$8.83
Total Development Charge – Excluding Water Services	\$8.33
Total Development Charge Excluding Wastewater Services	\$7.22
Total Development Charge excluding Water and Wastewater Services	\$6.72

NOTE:

The base Development Charge will be adjusted in accordance with the most recent twelve-month change reflected in the Statistics Canada Quarterly, "Construction Price Statistics" (CPS), catalogue number 62-007-XPB as of **July 1st** of each year.

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Insert schedules E-1 to E-9, provided by mark simeoni's group

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