

COUNTY OF OXFORD

BY-LAW No. 5082-2009

**A by-law to establish Village of Norwich
water and wastewater area-specific
development charges for the County of
Oxford**

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

AND WHEREAS the Council of the County of Oxford ("County of Oxford") has given Notice in accordance with Section 12 of the *Development Charges Act, 1997*, of its intention to pass a by-law under Section 2 of the said Act;

AND WHEREAS the Council of the County of Oxford has heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charge proposal at a public meeting held on May 28, 2009;

AND WHEREAS the Council of the County of Oxford had before it a report entitled Development Charge Background Study for County of Oxford dated May, 2009, prepared by Hemson Consulting Ltd., wherein it is indicated that the development of any land within the Village of Norwich will increase the need for services as defined herein;

AND WHEREAS by approval of the Development Charges Background Study, dated May 2009, as amended, Council has indicated its intent that future excess capacity shall be paid for by development charges or other similar charges.

AND WHEREAS the Council of the County of Oxford on July 8, 2009 approved the applicable Development Charge Background Study, May, 2009, as amended, in which certain recommendations were made relating to the establishment of a development charge policy for the County of Oxford pursuant to the *Development Charges Act, 1997*.

NOW THEREFORE THE COUNCIL OF THE COUNTY OF OXFORD ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law,
 - (1) “Act” means the *Development Charges Act, 1997, c. 27*;
 - (2) “Apartment dwelling” means any dwelling unit within a building containing more than four dwelling units where the units are connected by an interior corridor;
 - (3) “Affordable housing” means dwelling units and incidental facilities primarily for persons of low and moderate income that meet the requirements of any program for such purpose as administered by any agency of the Federal or Provincial government, the County of Oxford and/or the Area Municipality and for which an agreement has been entered into with the County of Oxford with respect to the provision of such dwelling units and facilities;
 - (4) “Bedroom” means a habitable room larger than seven square metres, including a den, study, or other similar area, but does not include a living room, dining room or kitchen;
 - (5) “Board of education” means a board defined in s.s. 1(1) of the *Education Act*;
 - (6) “Building Code Act” means the *Building Code Act, R.S.O. 1980, c. 51*, as amended;
 - (7) “Capital cost” means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or by others on behalf of, and as authorized by, the municipality or local board,
 - (a) to acquire land or an interest in land, including a leasehold interest;
 - (b) to improve land;
 - (c) to acquire, lease, construct or improve buildings and structures;

- (d) to acquire, lease, construct or improve facilities including,
 - (i) rolling stock with an estimated useful life of seven years or more,
 - (ii) furniture and equipment, other than computer equipment, and
 - (iii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act, 1984, S.O. 1984, c. 57*, and
- (e) to undertake studies in connection with any of the matters referred to in clauses (a) to (d);
- (f) to complete the development charge background study under Section 10 of the Act;
- (g) interest on money borrowed to pay for costs in (a) to (d);

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

- (8) "Council" means the Council of The County of Oxford;
- (9) "Development" means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 7 of this by-law and including the redevelopment of land or the redevelopment, expansion, extension or alteration of a use, building or structure except interior alterations to an existing building or structure which do not change or intensify the use of land;
- (10) "Development charge" means a charge imposed pursuant to this By-law;
- (11) "Dwelling" or "Dwelling unit" means any part of a building or structure with a room or suite of rooms used, or designed or intended for use by, one person or persons living together, in which sanitary facilities are provided for the exclusive use of such person or persons and in which a separate kitchen may or may not be provided;
- (12) "Farm building" means a building or structure actually used as part of or in connection with a bona fide farming operation and includes barns, silos

and other buildings or structures ancillary to a bona fide farming operation, but excluding a residential use;

- (13) “Grade” means the average level of finished ground adjoining a building or structure at all exterior walls;
- (14) “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.
- (15) “Industrial Building” means a building used for or in connection with,
- (a) manufacturing, producing, processing, storing or distributing something,
 - (b) research or development in connection with manufacturing, producing or processing something,
 - (c) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production, or processing takes place,
 - (d) office or administrative purposes, if they are,
 - (i) 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.
- (16) “Local board” means a public utility commission, public library board, local board of health, or any other board, commission, committee or body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or any part or parts thereof;
- (17) “Local services” means those services or facilities which are under the jurisdiction of the municipality and are related to a plan of subdivision or within the area to which the plan relates, required as a condition of approval under s.51 of the *Planning Act*, or as a condition of approval under s.53 of the *Planning Act*,
- (18) “Long-Term Care Home” means the floor area of a facility directly related to beds that are licensed, regulated or funded by the Ministry of Health and Long-Term Care, in an approved charitable home for the aged (as defined in the Charitable Institutions Act, R.S.O. 1990, c. C.9), a home (as

defined in the Homes for the Aged and Rest Homes Act, R.S.O. 1990, c. H.13), or a nursing home (as defined in the Nursing Homes Act, R.S.O. 1990, c. N.7);

- (19) "Multiple dwelling" means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;
- (20) "Municipality" means the County of Oxford;
- (21) "Non-residential uses" means a building or structure used for other than a residential use;
- (22) "Official plan" means the Official Plan of the County of Oxford and any amendments thereto;
- (23) "Owner" means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;
- (24) "Planning Act" means the *Planning Act, 1990*, R.S.O. 1990, c.P.13, as amended;
- (25) "Regulation" means any regulation made pursuant to the Act;
- (26) "Residential uses" means lands, buildings or structures or portions thereof used, or designed or intended for use as a home or residence of one or more individuals, and shall include a single detached dwelling, a semi-detached dwelling, a multiple dwelling, an apartment dwelling, and the residential portion of a mixed-use building or structure;
- (27) "Semi-detached dwelling" means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;
- (28) "Services" means services set out in Schedule "A" to this By-law;
- (29) "Single detached dwelling" means a completely detached building containing only one dwelling unit.
- (30) "Temporary building or structure" means a building or structure constructed or erected or placed on land for a continuous period not exceeding twelve months, or an addition or alteration to a building or

structure that has the effect of increasing the total floor area thereof for a continuous period not exceeding twelve months;

- (31) “Total floor area” means, 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;
- a) includes the floor area of a mezzanine atrium or air supported structure, and the space occupied by interior wall partitions;
- b) 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.

CALCULATION OF DEVELOPMENT CHARGES

2. (1) Subject to the provisions of this By-law, development charges in the municipality shall be imposed, calculated and collected in accordance with the base rates set out in Schedule “B”, 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 residential development or redevelopment, or a residential portion of a mixed-use development or redevelopment, the sum of the product of the number of dwelling units of each type multiplied by the corresponding total amount for such dwelling unit type, as set out in Schedule “B”;
- (b) in the case of non-residential development or redevelopment, or a non-residential portion of a mixed-use development or redevelopment, the development charge shall be the total floor area of such area multiplied by the corresponding total dollar amount per square metre of total floor area, as set out in Schedule “B”.
- (3) Council hereby determines that the development or redevelopment of land, buildings or structures for residential and non-residential uses will

require the provision, enlargement or expansion of the services referenced in Schedule "A".

PHASE-IN OF DEVELOPMENT CHARGES

3. The development charges imposed pursuant to this by-law are being phased in pursuant to the rates in the schedules set out on Schedule "B" of this by-law subject to the exemptions herein, from the effective date of this by-law.

APPLICABLE LANDS

4. (1) Subject to Section 5, this by-law applies to all lands within the boundaries designated in Schedule "C" to this by-law, 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 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 or the County of Oxford;
 - (c) a place of worship exempt under s.3 of the *Assessment Act*;
 - (d) a public hospital under the *Public Hospitals Act*.
- (3) This by-law shall not apply to:
 - (a) farm buildings as defined herein;
 - (b) industrial buildings as defined herein;
 - (c) temporary buildings or structures as defined herein;
 - (d) affordable housing as defined herein;
- (4) Development charges shall not be imposed on lands for which water and/or wastewater services are not available, provided that the lands meet the following criteria:

- (a) the lands are not within a plan of subdivision or a pending plan of subdivision under Section 51 of the Planning Act, registered after September 10, 1973;
- (b) no municipal water services and/or wastewater services are available within 150 metres of the property boundaries; and
- (c) no municipal water and/or wastewater services are scheduled to be provided to service the lands within five years of approval of the development of the lands.

If only one of water or wastewater services are unavailable to the lands, in accordance with the criteria set out above, development charges are applicable with respect to the other service.

RULES WITH RESPECT TO EXEMPTIONS FOR INTENSIFICATION OF EXISTING HOUSING

- 5. (1) Notwithstanding Section 4 above, no development charge shall be imposed with respect to developments or portions of developments as follows:
 - (a) the enlargement of an existing residential dwelling unit;
 - (b) the creation of one or two additional residential dwelling units in an existing single detached dwelling where the total gross floor area of each additional unit does not exceed the gross floor area of the existing dwelling unit;
 - (c) the creation of one additional dwelling unit in any other existing residential building provided the gross floor area of the additional unit does not exceed the smallest existing dwelling unit already in the building.
- (2) Notwithstanding subsection 5(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 total gross floor area of the existing single detached dwelling unit.

- (3) Notwithstanding subsection 5(1)(c), development charges shall be calculated and collected in accordance with Schedule “B” where the additional dwelling unit has a residential gross floor area greater than,
- (a) in the case of semi-detached house or multiple dwelling, the gross floor area of the smallest existing dwelling unit, and
 - (b) in the case of any other residential building, the residential gross floor area of the smallest existing dwelling unit.

DEVELOPMENT CHARGES IMPOSED

6. (1) Subject to subsection 6(2), development charges shall be calculated and collected in accordance with the provisions of this by-law and be imposed on land to be developed for residential and non-residential use, where, the development requires,
- (i) the passing of a zoning by-law or an amendment thereto under Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13;
 - (ii) the approval of a minor variance under Section 45 of the *Planning Act*, R.S.O. 1990, c.P.13;
 - (iii) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act*, R. S.O. 1990, c.P.13 applies;
 - (iv) the approval of a plan of subdivision under Section 51 of the *Planning Act*, R.S.O. 1990, c.P. 13;
 - (v) a consent under Section 53 of the *Planning Act*, R.S.O. 1990, c.P. 13;
 - (vi) the approval of a description under Section 50 of the *Condominium Act*, R.S.O. 1980, c.84; or
 - (vii) the issuing of a permit under the *Building Code Act*, in relation to a building or structure.
- (2) Subsection 6(1) shall not apply in respect to
- (a) local services installed or paid for by the owner within a plan of subdivision or within the area to which the plan relates, as a

condition of approval under Section 51 of the *Planning Act*, R.S.O. 1990, c.P. 13;

- (b) local services installed or paid for by the owner as a condition of approval under Section 53 of the *Planning Act*, R.S.O. 1990, c.P. 13.

LOCAL SERVICE INSTALLATION

- 7. Nothing in this by-law prevents Council from requiring, as a condition of an agreement under Section 51 or 53 of the *Planning Act*, that the owner, at his or her own expense, shall install or pay for such local services, within the Plan of Subdivision or within the area to which the plan relates, as Council may require.

MULTIPLE CHARGES

- 8. (1) Where two or more of the actions described in subsection 6(1) 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 8(1), if two or more of the actions described in subsection 6(1) occur at different times, and if the subsequent action has the effect of increasing the need for municipal services as set out in Schedule "A", an additional development charge on the additional residential units and non-residential floor area, shall be calculated and collected in accordance with the provisions of this by-law.

SERVICES IN LIEU

- 9. (1) Council may authorize an owner, through an agreement under Section 38 of the Act, to substitute such part of the development charge applicable to the owner's development as may be specified in the agreement, by the provision at the sole expense of the owner, of services in lieu. Such agreement shall further specify that where the owner provides services in lieu in accordance with the agreement, Council shall give to the owner a credit against the development charge in accordance with the agreement provisions and the provisions of Section 39 of the Act, equal to the reasonable cost to the owner of providing the services in lieu. In no case shall the agreement provide for a credit which exceeds the total

development charge payable by an owner to the municipality in respect of the development to which the agreement relates.

- (2) In any agreement under subsection 9(1), Council may also give a further credit to the owner equal to the reasonable cost of providing services in addition to, or of a greater size or capacity, than would be required under this by-law.
- (3) The credit provided for in subsection 9(2) shall not be charged to any development charge reserve fund.

FRONT-ENDING AGREEMENTS

10. Council may authorize a front-ending agreement in accordance with the provisions of Part III of the Act, upon such terms as Council may require, in respect of the development of land.

RULES WITH RESPECT TO RE-DEVELOPMENT

11. In the case of the demolition of all or part of a residential or non-residential building or structure:
 - (1) a credit shall be allowed, provided that the land was improved by occupied structures within the five years prior to the issuance of the building permit, and the building permit has been issued for the development or redevelopment within five years from the date the demolition permit has been issued; and
 - (2) if a development or redevelopment involves the demolition of and replacement of a building or structure, or the conversion from one principal use to another, a credit shall be allowed equivalent to:
 - (a) the number of dwelling units demolished/converted multiplied by the applicable residential development charge in place at the time the development charge is payable, and/or
 - (b) the gross floor area of the building demolished/converted multiplied by the current non-residential development charge in place at the time the development charge is payable.

12. A credit can, in no case, exceed the amount of the development charge that would otherwise be payable, and no credit is available if the existing land use is exempt under this by-law.

TIMING OF CALCULATION AND PAYMENT

13. (1) Development charges shall be calculated and payable in full in money or by provision of services as may be agreed upon, or by credit granted and defined by various references in the Development Charges 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) Notwithstanding 13(1), Development charges may be, if required by the County, calculated and payable in full in money or by provision of services as may be agreed upon, or by credit granted and defined by various references in the Development Charges Act, on the date on which the owner and the municipality enter into a subdivision or consent agreement with respect to the land to which the development charge applies.
- (3) 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 charge has been paid in full.

RESERVE FUNDS

14. (1) Monies received from payment of development charges under this by-law shall be maintained in a reserve fund as follows: water and wastewater (Norwich area-specific).
- (2) Monies received for the payment of development charges shall be used only in accordance with the provisions of Section 35 of the Act.
- (3) Council directs the Municipal Treasurer to divide the reserve funds created hereunder into separate sub-accounts in accordance with the service sub-categories set out in Schedule "A" to which the development charge payments shall be credited in accordance with the amounts shown, plus interest earned thereon.
- (4) Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.

- (5) Where any unpaid development charges are collected as taxes under subsection 14(4), the monies so collected shall be credited to the development charge reserve funds referred to in subsection 14(1).
- (6) The Treasurer of the Municipality shall, in each year commencing in 2010 for the 2009 year, furnish to Council a statement in respect of the reserve funds established hereunder for the prior year, containing the information set out in Section 12 of O.Reg. 82/98.

BY-LAW AMENDMENT OR APPEAL

15. (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 resolution of the Municipal Council, the Municipal Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal.
- (2) Refunds that are required to be paid under subsection 15(1) 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 Bank of Canada interest rate in effect on the date of enactment of this by-law shall be used.
- (3) Refunds that are required to be paid under subsection 15(1) shall include the interest owed under this section.

BY-LAW INDEXING

16. The development charges set out in Schedule "B" to this by-law shall be adjusted annually as of April 1, without amendment to this by-law, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics".

SEVERABILITY

17. 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.

HEADINGS FOR REFERENCE ONLY

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

BY-LAW REGISTRATION

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

BY-LAW ADMINISTRATION

20. This by-law shall be administered by the Municipal Treasurer.

SCHEDULES TO THE BY-LAW

21. The following Schedules to this by-law form an integral part of this by-law:

Schedule A	-	Schedule of Municipal Services
Schedule B	-	Schedule of Development Charges
Schedule C	-	Map of Area to which By-law 5082-2009 applies

DATE BY-LAW EFFECTIVE

22. This By-law shall come into force and effect on August 10th, 2009.

EXISTING BY-LAW REPEAL

23. By-law 4441-2004 is repealed as of effective date.

SHORT TITLE

24. This by-law may be cited as the "County of Oxford - Norwich Water and Wastewater Charges, 2009 Area Specific Development Charge By-law."

READ a first and second time this 8th day of July, 2009.

READ a third time and finally passed in Open Council this 8th day of July, 2009.

"Paul J. Holbrough"

PAUL J.HOLBROUGH, WARDEN

"Brenda J. Tabor"

BRENDA J. TABOR CLERK

SCHEDULE "A"
TO BY-LAW NO. 5082-2009

DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

1. Water Service
2. Wastewater Service

**County of Oxford
Schedule B
By-Law Number 5082-2009**

**Schedule of Norwich Water and Wastewater
Area-Specific Development Charges**

1.) Rates Effective: Effective Date of By-law to March 31, 2010.

Service Component	Residential Dwellings				Non-Residential per square metre of floor area (Industrial Uses Exempt)
	Single Detached & Semi Detached Dwelling	Apartments		Other Multiples	
		2 or More Bedrooms	Bachelor & 1 Bedroom		
	\$	\$	\$	\$	\$ per square metre
Water	1,188	576	432	828	5.00
Wastewater	7,088	3,437	2,577	4,940	34.50
TOTAL	8,276	4,013	3,009	5,768	39.50

2) Rates Effective from April 1, 2010 (plus indexing)

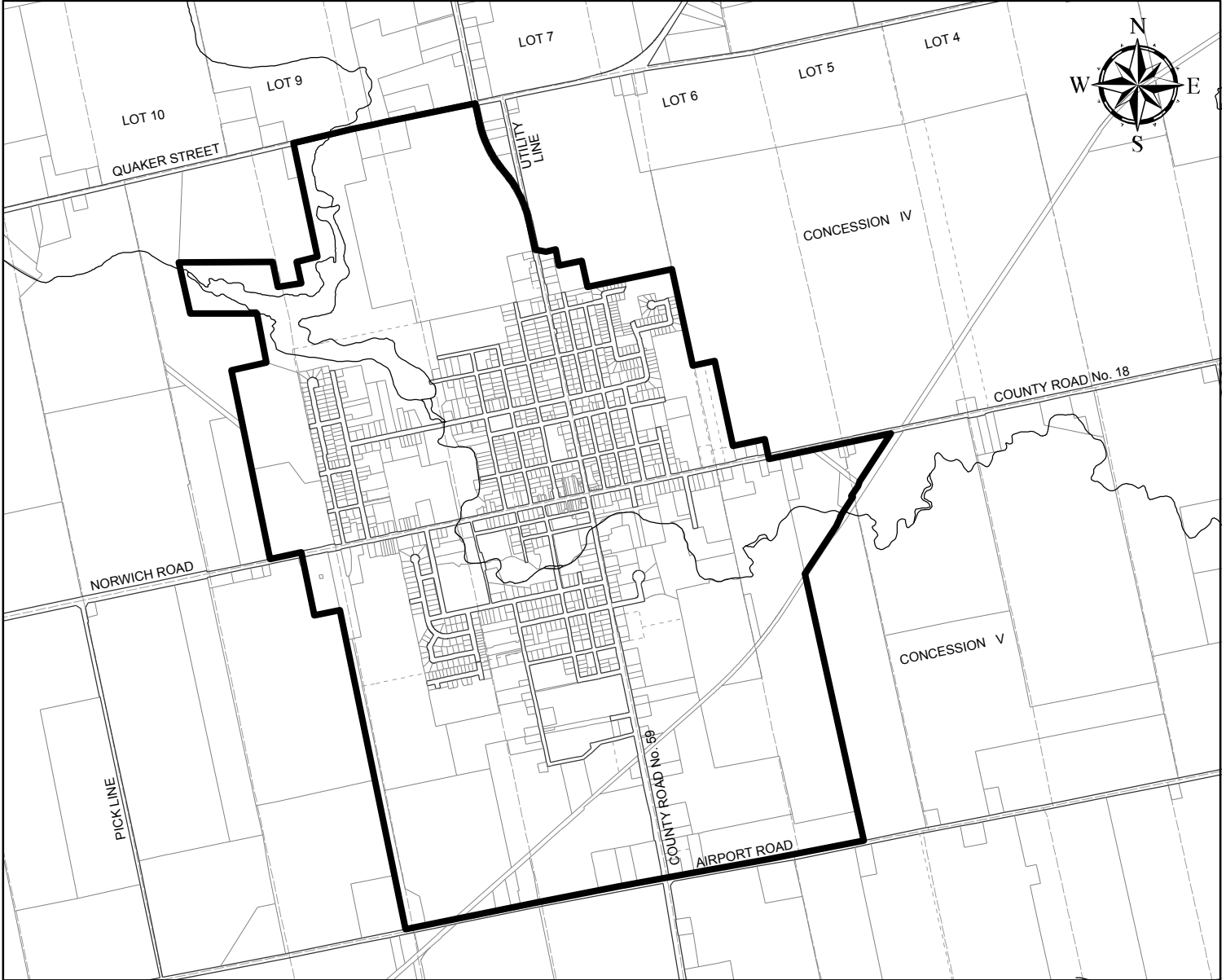
Service Component	Residential Dwellings				Non-Residential per square metre of floor area (Industrial Uses Exempt)
	Single Detached & Semi Detached Dwelling	Apartments		Other Multiples	
		2 or More Bedrooms	Bachelor & 1 Bedroom		
	\$	\$	\$	\$	\$ per square metre
Water	1,188	576	432	828	5.00
Wastewater	8,224	3,987	2,990	5,732	34.50
TOTAL	9,412	4,563	3,422	6,560	39.50

SCHEDULE "C"

TO BY-LAW No. 5082-2009

SCHEDULE OF LANDS ON WHICH THE
NORWICH WATER AND WASTEWATER
AREA-SPECIFIC DEVELOPMENT CHARGE IS IMPOSED

COUNTY OF OXFORD



LANDS TO WHICH BY-LAW 5082-2009 APPLIES
FOR THE PURPOSES OF WATER AND
WASTEWATER DEVELOPMENT CHARGE

THIS IS SCHEDULE "C"
TO BY-LAW No. 5082-2009

PASSED THE 8th DAY OF July, 2009

"Paul J. Holbrough"

WARDEN

"Brenda J. Tabor"

CLERK