BY-LAW NUMBER 136-09

- of -

THE CORPORATION OF THE COUNTY OF BRANT

Being a by-law of the Corporation of the County of Brant 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 located in the municipality for increased capital costs required because of the need for services arising from development in the area to which the by-law applies;

AND WHEREAS the Council of the Corporation of the County of Brant (hereinafter called "the Council"), at its meeting of August 26, 2009, approved a report dated July 6, 2009 entitled "County of Brant, 2009 Development Charge Background Study" as amended August 18, 2009, which report was prepared by Watson & Associates Economists Ltd.;

AND WHEREAS the Council has given Notice in accordance with Section 12 of the *Development Charges Act, 1997* of its development charge proposal and held a public meeting on July 21, 2009;

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

AND WHEREAS the Council in adopting the Development Charge Background Study on August 26, 2009, directed that development charges be imposed on land under development or redevelopment within the geographical limits of the municipality as hereinafter provided;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY enacts as follows:

1. In this by-law,

DEFINITIONS

(1) "Act" means the *Development Charges Act, 1997*, c.27;

(2) "accessory" use means a use of land, building or structures, which is incidental and subordinate to the principal use of the lands, buildings or structures;

(3) "apartment dwelling" means any residential dwelling unit within a building containing more than five dwelling units where the residential units are connected by an interior corridor;

(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,* 1997, S.O. 1997, c.E.2;

(6) "Building Code Act" means the *Building Code Act*, 1992, S.O. 1992, c.23, as amended;

(7) "capital cost" has the same meaning it has in the Act;

(8) "council" means the Council of the Corporation of the County of Brant;

(9) "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;

(10) "development charge" means a charge imposed against land in the municipality under this by-law;

(11) "dwelling unit" means any part of a building or structure used, designed or intended to be used as a domestic establishment in which one or more persons may sleep and are provided with culinary and sanitary facilities for their exclusive use;

(12) "farm building" means that part of a bona fide farming operation encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use;

(13) "garden suite" is 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;

(14) "grade" means the average level of finished ground adjoining a building or structure at all exterior walls;

(15) "Industrial Building" means a building used for or in connection with,
   (a) manufacturing, producing, processing, storing or distributing goods;
   (b) research or development in connection with manufacturing, producing, or processing goods,
   (c) retail sales by a manufacturer, producer or processor of goods 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,
      a. carried out with respect to manufacturing, producing, processing, storage or distribution of goods, and
      b. in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;

(16) "local board" means a 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 the municipality or any part or parts thereof;

(17) "local services" means those services, facilities or things 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) "multiple dwellings" means all dwellings other than single-family dwellings, semi-detached dwellings and apartment dwellings.

(19) "municipality" means the Corporation of the County of Brant;

(20) "non-residential use" means a building or structure used for other than a residential use and includes an industrial building;

(21) "Official Plan" means the Official Plan of the Corporation of the County of Brant and any amendments thereto;

(22) "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;

(23) "place of worship" means that part of a building or structure that is exempt from taxation as a place of worship under paragraph 3 of Section 3 of the *Assessment Act,* R.S.O. 1990, c.A.31, as amended;

(24) "Planning Act" means the *Planning Act, 1990,* c.P.-13*,* as amended;

(25) "regulation" means any regulation made pursuant to the Act;

(26) "residential use" means land or buildings or structures of any kind whatsoever used, designed or intended to be used as living accommodations for one or more individuals;

(27) "semi-detached dwelling" means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but no other parts attached to another dwelling unit where the residential units are not connected by an interior corridor;

(28) "services" (or "service") means those services set out in Schedule A to this by-law;

(29) "services in lieu" means those services specified in an agreement made under Section 7 of this by-law;

(30) "servicing agreement" means an agreement between a landowner and the municipality relative to the provision of municipal services to specified lands within the municipality;

(31) "single detached dwelling" means a residential building consisting of one dwelling unit and not attached to another structure;

(32) "total floor area" means the total area of all floors above grade of a dwelling unit measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit from another dwelling unit or other portion of a building;

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

- a room or enclosed area within the building or structure above or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
- loading facilities above or below grade; and
- a part of the building or structure below grade that is used for the parking of motor vehicles or for storage or other accessory use;

2. SCHEDULE OF DEVELOPMENT CHARGES

(1) Subject to the provisions of this by-law, development charges against land shall be 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 the residential portion of a mixed-use development, based upon the number and type of dwelling units;

(b) in the case of non-residential development, or the non-residential portion of a mixed-use development, based upon the total floor area of such development.

(3) Council hereby determines that the development of land, buildings or structures for residential and non-residential uses have required or will require the provision, enlargement, expansion or improvement of the services referenced in Schedule A.

(4) Notwithstanding subsection (1), the development of a residential or non-residential building is exempt from that portion of the development charges calculated for water and/or sewer service, if it is located outside of the area where these services are available.

(5) This by-law provides for the phasing in of the non-residential rates as indicated in Schedule B.

(6) Notwithstanding subsection (1) and (5), the rates imposed for industrial buildings shall be as follows:

(a) From by-law passage to August 31, 2011 $0

(b) From September 1, 2011 to August 31, 2012, 16% of the non-residential charge shown in Schedule B-2, including any adjustment made subject to Section 13;

(c) From September 1, 2012 to August 31, 2013, 33% of the non-residential charge shown in Schedule B-2, including any adjustment made subject to Section 13; and

(d) From September 1, 2013 to by-law expiry, 50% of the non-residential charge shown in Schedule B-2, including any adjustment made subject to Section 13.

3. APPLICABLE LANDS

(1) Subject to subsections (2), (3), (6) and (9), this by-law applies to all lands in the municipality, whether or not the lands or use is exempt from taxation under Section 3 of the *Assessment Act*, 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;

(c) a non-residential farm building.

(3) This by-law shall not apply to that category of exempt development described in s.s. 2(3) and s.4 of the *Development Charges Act, 1997*, namely:

(a) the enlargement of an existing dwelling unit or the creation of one or two additional dwelling units in an existing detached house where the total residential gross floor area of the dwelling units created does not exceed the residential gross floor area of the existing dwelling unit prior to the enlargement; or

(b) the creation of one additional dwelling unit in any other existing residential building, 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 in the case of a semi-detached house, or row house, or does not exceed the residential gross floor area of the smallest existing dwelling unit contained in any other residential building.

(4) Notwithstanding subsection (3)(a), 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 dwelling unit.

(5) Notwithstanding subsection (3)(b), 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 a semi-detached house or row-house, the gross floor area of the existing smallest dwelling unit, and

(b) in the case of any other residential building, the residential gross floor area of the smallest dwelling unit contained in the residential unit.

(6) This by-law shall not apply to that category of exempt development described in s.4 of the *Development Charges Act, 1997* and s.1 of O.Reg. 82/98, namely:

(a) the enlargement of the gross floor area of an existing industrial building, if the gross floor area is enlarged by 50 percent or less;

(b) for the purpose of (a), the terms “gross floor area” and “existing industrial building” shall have the same meaning as those terms have in O.Reg. 82/98 under the Act.

(7) Notwithstanding subsection (6)(a), if the gross floor area is enlarged by more than 50 per cent, development charges shall be calculated and collected in accordance with Schedule B on the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement.

(8) That where a conflict exists between the provisions of this by-law and any other agreement between the County and the owner, with respect to land to be charged under this policy, the provisions of such agreement prevail to the extent of the conflict.

(9) Notwithstanding subsection (1), this by-law shall not apply to land within the Paris urban settlement area, as defined in Schedule “C” of this by-law, with respect to the portion of the charges in Schedule B which relate to the Sanitary Sewer, Water and Roads Services.

4. APPLICATION OF CHARGES

(1) Subject to subsection (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 for residential and non-residential use, where,

(a) the development requires,

(i) the passing of a zoning by-law or 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* applies;

(iv) the approval of a plan of subdivision under Section 51 of the *Planning Act*;

(v) a consent under Section 53 of the *Planning Act*;

(vi) the approval of a description under Section 50 of the *Condominium Act*, R.S.O. 1990, c.C.26, as amended or section 9 of the *Condominium Act*, 1998, S.O. 1998, c.19 and as amended or successor legislation; or

(vii) 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 at the expense of 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 at the expense of the owner as a condition of approval under Section 53 of the *Planning Act,* R.S.O. 1990, c.P.13.

5. LOCAL SERVICE INSTALLATION

Nothing in this by-law prevents Council from requiring, as a condition of an agreement under 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 plan of subdivision, and otherwise, as Council may require, and that the owner pay for, or install local services within the area to which the plan relates.

6. MULTIPLE CHARGES

(1) Where two or more of the actions described in Section 4(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 (1), if two or more of the actions described in Section 4(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/or non-residential floor area, shall be calculated and collected in accordance with the provisions of this by-law.

7. SERVICES IN LIEU

(1) Council may authorize an owner, through an agreement under s.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 s.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 Section 7(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 (2) shall not be charged to any development charge reserve fund prescribed in this by-law.

8. DEVELOPMENT CHARGE CREDITS

(1) In the case of the demolition or conversion of all part of a residential or non-residential building, a credit shall be allowed, provided that the building permit for the development or redevelopment is issued within five (5) years of the demolition permit has been issued. The owner shall be allowed a credit equivalent to:

(a) the number of dwelling units demolished/converted multiplied by the applicable residential development charge in place at the time the DC is payable, and/or

(b) the gross floor area of the building demolished/converted multiplied by the applicable non-residential development charge in place at the time the DC is payable. The demolition credit is allowed only if the land was improved by occupied structures immediately prior to the demolition.

(2) The credit can, in no case, exceed the amount of development charges that would otherwise be payable by the owner.

9. TIMING OF CALCULATION AND PAYMENT

(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 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, or in a manner or at a time otherwise lawfully agreed upon.

(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 charge has been paid in full.

(3) Notwithstanding subsections (1) and (2), an owner may enter into an agreement with the municipality to provide for the payment in full of a development charge before building permit issuance or later than the issuing of a building permit.

10. BY-LAW REGISTRATION

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

11. RESERVE FUNDS

(1) Monies received from payment of development charges shall be maintained in separate reserve funds for each of the services in Schedule “A”.

(2) Monies received for the payment of development charges shall be used only in accordance with the provisions of s.35 of the Act.

(3) Council directs the Municipal Treasurer to divide the reserve funds created hereunder into the separate sub-accounts in accordance with the service 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 (4), the monies so collected shall be credited to the development charge reserve fund or funds referred to in subsection (1).

(6) The Treasurer of the Municipality shall, 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 Sections 12 and 13 of O.Reg. 82/98.

12. BY-LAW AMENDMENT OR REPEAL

(1) Where this by-law or any development charge prescribed thereunder is amended or repealed 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 (1) shall be paid to the registered owner of the land on the date on which the refund is paid.

(3) Refunds that are required to be paid under subsection (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 day on which the refund is paid;

(b) the refund shall include the interest owed under this section;

(c) interest shall be paid at the Bank of Canada rate in effect on the date of enactment of this by-law.

13. DEVELOPMENT CHARGE SCHEDULE INDEXING

The development charges referred to in Schedule “B” shall be adjusted annually, without amendment to this by-law, commencing in September, 2010, and annually thereafter in each September while this by-law is in force, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, “Construction Price Statistics.”

14. BY-LAW ADMINISTRATION

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

15. SCHEDULES TO THE BY-LAW

The following schedules to this by-law form an integral part of this by-law:

Schedule A - Designated Municipal Services

Schedule B - Schedule of Development Charges

Schedule C – Paris Urban Settlement Boundary

16. DATE BY-LAW EFFECTIVE

(1) This by-law shall come into force and effect on September 1, 2009.

17. EXISTING DEVELOPMENT CHARGE BY-LAW REPEAL

By-law 170-04 is repealed effective September 1, 2009.

18. SEVERABILITY

If, for any reason, any provision, section, subsection or paragraph of this by-law is held to be invalid, it is hereby declared to be the intention of Council that all of the remainder of this by-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part or dealt with in any other way.

19. SHORT TITLE

This by-law may be cited as the "Brant County-wide Development Charge By-law Number 136-09".

READ a first and second time, this 26th day of August, 2009.

READ a third time and finally passed in Council, this 26th day of August, 2009.

THE CORPORATION OF THE COUNTY OF BRANT

____
Mayor

____
Clerk

BY-LAW NUMBER 136-09

SCHEDULE "A"

DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

1. Studies Service
2. Fire Protection Service
3. Emergency Service (Ambulance)
4. Parks and Recreation Service
5. Library Service
6. Public Works Service
7. Roads (and Related) Service
8. Water Service
9. Sanitary Sewer Service

SCHEDULE "B"
TO THE BY-LAW 2009-___ OF COUNTY OF BRANT
SCHEDULE OF DEVELOPMENT CHARGES
AS OF _________ , 2009

SCHEDULE "B-1"

Effective from September 1, 2009 to August 31, 2010

Service	Per Residential Dwelling Unit				NON-RESIDENTIAL (per sq. m. of Total Floor Area)
	Single Family & Semi-	2 Bedroom & Larger	Bachelor & 1 Bedroom	Other Multiples	
Studies	$ 205	$ 116	$ 92	$ 141	$ 0.93
Fire Protection	212	120	95	146	0.96
Emergency Services (Ambulance)	36	20	16	25	0.05
Parks & Recreation	1,029	584	463	708	0.45
Libraries	332	188	150	228	0.15
Public Works	177	100	80	122	0.80
County-wide Sub-total	1,991	1,128	896	1,370	$ 3.34
Roads & Related [2]	2,101	1,192	946	1,445	2.92
Sanitary Sewer [1, 2]	7,671	4,353	3,454	5,276	10.22
Water [1, 2]	4,427	2,512	1,994	3,046	5.90
Total	16,190	9,185	7,290	11,137	$ 22.38

SCHEDULE "B-2"

Effective from September 1, 2010

Service	Per Residential Dwelling Unit				NON-RESIDENTIAL (per sq. m. of Total Floor Area)
	Single Family & Semi-Detached Dwelling	2 Bedroom & Larger Apartment	Bachelor & 1 Bedroom Apartments & Garden Suites	Other Multiples	
Studies	$ 205	$ 116	$ 92	$ 141	$ 0.93
Fire Protection	212	120	95	146	0.96
Emergency Services (Ambulance)	36	20	16	25	0.05
Parks & Recreation	1,029	584	463	708	0.45
Libraries	332	188	150	228	0.15
Public Works	177	100	80	122	0.80
County-wide Sub-total	1,991	1,128	896	1,370	$ 3.34
Roads & Related [2]	2,101	1,192	946	1,445	21.42
Sanitary Sewer [1, 2]	7,671	4,353	3,454	5,276	74.83
Water [1, 2]	4,427	2,512	1,994	3,046	43.19
Total	16,190	9,185	$7,290	$11,137	$ 142.78

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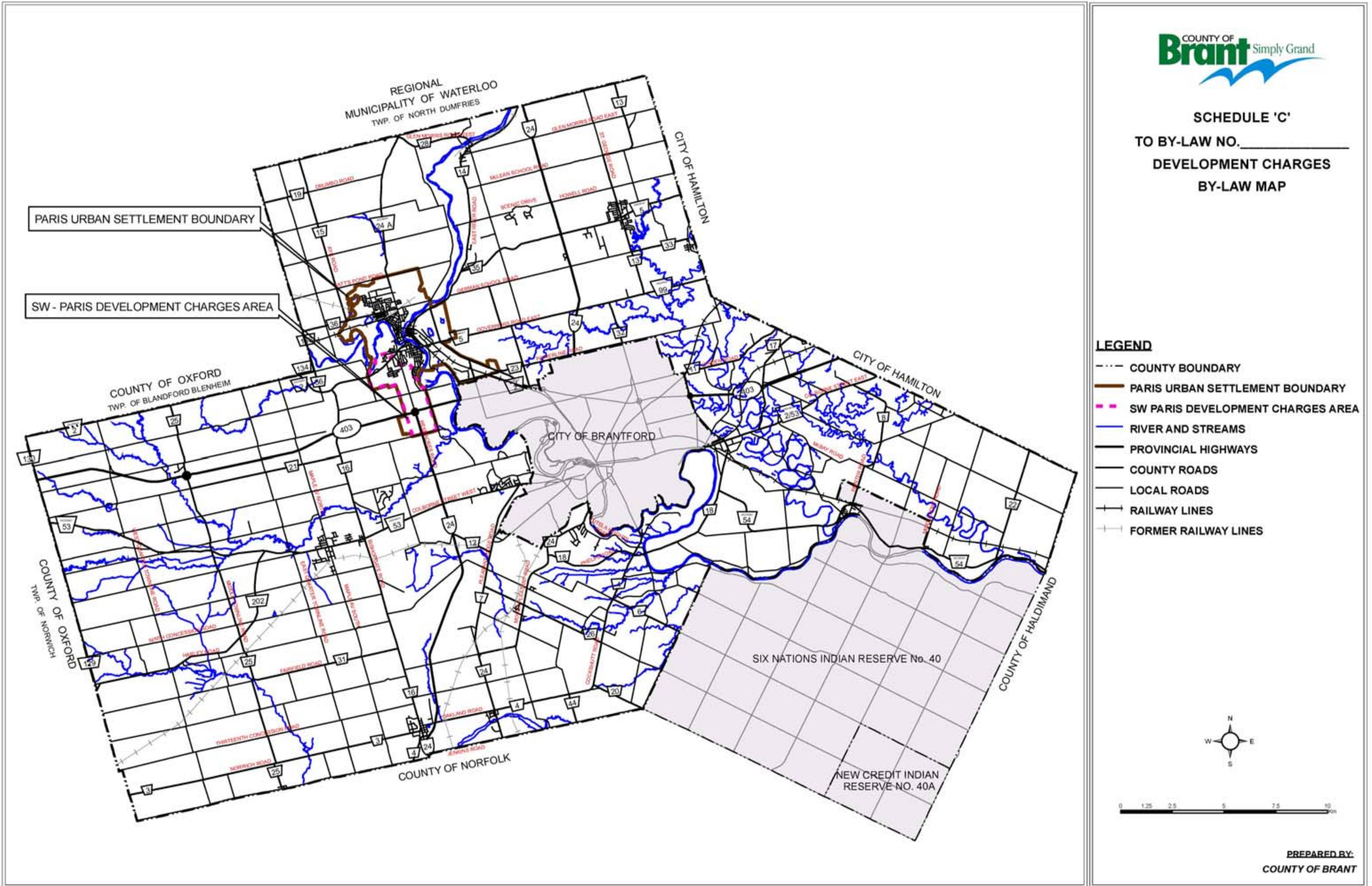
[1] Development charge imposed only where such service is to be available to development.
[2] Development charge not imposed within the Paris urban settlement area, as charges for these services are imposed under separate by-laws for that area.


COUNTY OF Brant Simply Grand
SCHEDULE 'C'
TO BY-LAW NO.______________
DEVELOPMENT CHARGES
BY-LAW MAP
LEGEND
COUNTY BOUNDARY
PARIS URBAN SETTLEMENT BOUNDARY
SW PARIS DEVELOPMENT CHARGES AREA
RIVER AND STREAMS
PROVINCIAL HIGHWAYS
COUNTY ROADS
LOCAL ROADS
RAILWAY LINES
FORMER RAILWAY LINES
PREPARED BY:
COUNTY OF BRANT
PARIS URBAN SETTLEMENT BOUNDARY
SW - PARIS DEVELOPMENT CHARGES AREA
REGIONAL MUNICIPALITY OF WATERLOO
TWP. OF NORTH DUMFRIES
CITY OF HAMILTON
COUNTY OF OXFORD
TWP. OF BLANDFORD BLENHEIM
CITY OF BRANTFORD
CITY OF HAMILTON
COUNTY OF OXFORD
TWP. OF NORWICH
SIX NATIONS INDIAN RESERVE No. 40
NEW CREDIT INDIAN RESERVE NO. 40A
COUNTY OF NORFOLK
COUNTY OF HALDIMAND