

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NUMBER 2009-81

A BY-LAW TO ESTABLISH DEVELOPMENT CHARGES  
FOR RESIDENTIAL DEVELOPMENT

**WHEREAS** Section 2 of the Development Charges Act, 1997 (the "Act") provides that the council of a municipality may pass By-laws for the imposition of development charges against land to pay for increased capital cost required because of increased needs for services arising from development;

**AND WHEREAS** a development charge background study was prepared dated September 2009, as required by Section 10 of the Act, has been completed within one year prior to the enactment of this by-law;

**AND WHEREAS** the Corporation of the Town of Amherstburg has given notice of and held a public meeting on the 19<sup>th</sup> of October, 2009, in accordance with the provisions of the Act and the regulations thereto and has heard all persons who requested to be heard;

**AND WHEREAS** the development charges background study was made available to the public on September 23<sup>rd</sup>, 2009, at least two weeks prior to the public meeting held the 19<sup>th</sup> of October, 2009;

**AND WHEREAS** the Town of Amherstburg will experience growth through development and redevelopment that will directly require the provision of hard and soft services by the Town of Amherstburg as a result of that growth;

**AND WHEREAS** Council desires to ensure that the capital cost of meeting growth-related demands for or burden on municipal services does not place a financial burden on the Town of Amherstburg or its existing taxpayers while at the same time ensuring new taxpayers contribute no more than the net capital cost attributable to providing the current level of municipal services;

**AND WHEREAS** Council had before it a report entitled the "Development Charges Study (Residential)" submitted by Monteith Brown Planning Consultants dated September, 2009;

**NOW THEREFORE** the Council of The Corporation of the Town of Amherstburg **ENACTS** as follows:

1. In this By-Law:
  - (a) "Act" means the Development Charges Act, 1997, c.27.
  - (b) "Board of Education" has the same meaning as that specified as "board" as defined in s.s.1(1) of the Education Act, R.S.O. 1990, Chap. E.2, as amended, or any successor thereto.
  - (c) "Building Code Act 1992" means the Building Code Act, S.O. 1992, Chapt. 23, as amended, or any successor thereto and all regulations thereto, including the Ontario Building Code 1997, as amended.
  - (d) "Capital cost" means costs incurred or proposed to be incurred by the Town or a local board thereof directly or by others on behalf of, and authorized by, the Town or a local board, to acquire land or an interest in land, including a leasehold interest; to improve land; to acquire, lease, construct or improve buildings and structures; to acquire, lease, construct or improve facilities including rolling stock, with an estimated useful life of seven years or more, furniture and equipment other than computer equipment, and materials acquired for circulation, reference or information purposes by a library board as defined in the Public Libraries Act, R.S.O. 1990, Chap. P.44, as amended, or any successor thereto; to undertake studies in connection with any of the matters referred to in this definition, to complete the development charges background study under Section 10 of the Act; and interest on money borrowed to pay for costs described in this definition of capital cost, that are required for the provision of services designated in a development charge by-law within or outside of the Town.
  - (e) "Development" includes redevelopment.
  - (f) "Development Charge" means a charge imposed with respect to growth-related net capital costs against land under this By-Law.
  - (g) "Dwelling Unit" means a room or suite of habitable rooms which:
    - (i) is located in a building;
    - (ii) is used or intended to be used by one or more persons as a single, independent and separate housekeeping establishment;
    - (iii) contains food preparation and sanitary facilities provided for the exclusive use of the occupants thereof; and
    - (iv) has a private entrance directly from outside the building or from a common hallway or stairway inside the building.
  - (h) "Single Detached" means a single dwelling which is freestanding, separate and detached from other main buildings or main structures, and contains not more than one dwelling unit as the sole main use.
  - (i) "Apartment" means a dwelling unit located within a residential building that contains four or more dwelling units; to each of which access is obtained through a common entrance or entrances from the outside and through a corridor or hallway from the inside.
  - (j) "Other Dwelling" means a dwelling unit located within the following dwelling types:

"Duplex Dwelling" which is defined as the whole of a dwelling other than a converted dwelling that is divided horizontally into two separate dwelling units

each of which has an independent entrance either directly from the outside or through a common vestibule; or a

"Rowhouse" or "Townhouse" which is defined as a building divided vertically into three or more attached dwelling units by common walls extending from the base of the foundation to the roof line, each dwelling unit having a separate entrance at grade, and so located on a lot that individual units may not have legal frontage on a public street; or a

"Semi-Detached Dwelling" which is defined as one of a pair of two attached single dwellings with a common wall having a fire resistance rating of at least one hour, dividing the pair of single dwellings vertically, each of which has an independent entrance either directly from the outside or through a common vestibule; or a

"Street Rowhouse" or "Street Townhouse" which is defined as a rowhouse with each unit on a separate lot and having legal frontage on a public street; or a

"Accessory Dwelling Unit" which is defined as a dwelling unit accessory to a permitted non-residential use; or a

"Triplex Dwelling" which is defined as the whole of a dwelling that is divided horizontally and/or vertically into three separate dwelling units each of which has an independent entrance either directly from the outside or through a common entrance.

- (k) "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 new development in all or a defined part of the Town of Amherstburg.
- (l) "Local Board" means a school board, public utility commission, or any board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of the Town of Amherstburg or any part or parts thereof.
- (m) "Local Services" means those services, facilities or things which are within the boundaries of, about or are necessary to connect lands to services and an application has been made in respect of the lands under Sections 40, 50 and 52 of the Planning Act.
- (n) "Net Capital Cost" means the capital cost less capital grants, subsidies and other contributions made to the Town of Amherstburg or that the Council of the Town of Amherstburg anticipates will be made, including conveyances or payments under the Planning Act, in respect of the capital cost;
- (o) "Official Plan" means the Official Plan plus amendments of the Town of Amherstburg.
- (p) "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.
- (q) "Rate" means the interest rate established weekly by the Bank of Canada for Treasury Bills having a term of 30 days.
- (r) "Regulation" means any regulation made pursuant to the Act.

- (s) "Sanitary Service Area" means an area within the Town of Amherstburg and identified on Schedule "C" to this By-law where development shall proceed only on the basis of full municipal sanitary sewer and water services.
  - (t) "Services" means those services, facilities, accommodations and things designated in this By-Law.
  - (u) "Services in Lieu" means those services specified in an agreement made under Section 12 of this By-Law.
  - (v) "Servicing Agreement" means an agreement to provide municipal services by the Town of Amherstburg pursuant to the provisions of section 51 of the Planning Act.
  - (w) "Zoning By-Law" means the Zoning by-Law of the Town of Amherstburg plus amendments adopted.
2. This By-Law applies to all lands in the Town of Amherstburg whether or not the land or use thereof is exempt from taxation under S.3 of the Assessment Act.
  3. Notwithstanding Section 2 above, this By-Law does not apply to the development of land that is owned by and used for the purposes of:
    - (i) a Board of Education;
    - (ii) the Town of Amherstburg;
    - (ii) the related upper or lower tier municipality, as the case may be, or any local board thereof.

4. Council hereby determines that development charges against land, buildings or structures for Residential uses shall be based upon the provision of the following designated services.

Category of Service

Fire Protection  
Police Department  
Engineering (sanitary, storm, water, hydro)  
Recreation  
Public Works (Building and Fleet)

5. Council hereby imposes the development charges shown on Schedule "B" hereto to those categories of Residential uses of land, buildings and structures shown on the said Schedule "B" and to those lands shown on Schedule "C" to defray the growth-related net capital cost of providing, enlarging, expanding or improving the services.
6. Development charges shall be collected for development or redevelopment within each sanitary service area identified on Schedule "C" and for the area beyond the sanitary service areas at the corresponding rate identified on Schedule "B".
7. This By-Law does not apply to that category of exempt development described in Subsection 2(3) of the Act and Section 2 of the Regulation 82/98.
8. In the case of a development containing more than one category of residential use shown on Schedule "B" hereto, each such use shall bear its applicable development charge.

9. (1) Subject to subsection 9(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 use, where, the development required:
  - (a) 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;
  - (b) the approval of a minor variance under Section 45 of the Planning Act, R.S.O. 1990, c. P.13;
  - (c) a conveyance of land to which a by-law passed under subsection 49(7) of the Planning Act, R.S.O. 1990, c. P.13 applies;
  - (d) the approval of a plan of subdivision under Section 51 of the Planning Act, R.S.O. 1990, c. P.13;
  - (e) a consent under Section 53 of the Planning Act, R.S.O. 1990, c. P.13;
  - (f) the approval of a description under Section 50 of the Condominium Act: or
  - (g) the issuing of a building permit under the Building Code Act, in relation to a building or structure.
- (2) Subsection 9(1) shall not apply in respect to 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 or as a condition of approval under Section 53 of the Planning Act, R.S.O. 1990, c. P.13;
10. Where two or more of the actions described in subsection 9(1) are required before land to which development charges applies can be developed, only one development charge shall be calculated and collected in accordance with the provisions of this by-law unless the action described in subsection 9(1) occurs at different times and the subsequent action results in increasing the need for municipal services then the additional residential units shall be calculated and collected in accordance with the provisions of this By-law.
11. (a) If the development will not be the subject of a Servicing Agreement or an agreement under Sections 51 or 53 of the Planning Act, then the whole of the development charge imposed hereunder shall be calculated and paid in full on the date a building permit under the Building Code Act is issued in respect of the building or structure for the use to which the development charge hereunder applies.
- (b) If the development will be the subject of a Servicing Agreement or an agreement under Sections 42, 51 or 53 of the Planning Act, then:
  - (i) that portion of the development charge imposed hereunder with respect to storm sewers, watermains, sanitary sewers and roadways services shall be calculated and paid on the date the Servicing Agreement or agreement under Sections 42, 51 or 53 of the Planning Act, is executed; and
  - (ii) that portion of the development charge imposed hereunder with respect to services, other than storm sewers, watermains, sanitary sewer and roadway services, shall be calculated and paid on the date a building permit under the Building Code Act is issued in

respect of the building or structure for the use to which the development charge hereunder applies.


- (c) If a development may not require a building permit then the development charge shall be calculated and paid in full as a condition of the earliest of any of the approvals required for the development including the passage of a zoning by-law amendment or an amendment to a zoning by-law under section 34 of the Planning Act; the approval of a minor variance under section 45 of the Planning Act; the conveyance of land to which a by-law passed under section 50(7) of the Planning Act applies; the approval of a plan of subdivision under section 51 of the Planning Act; a consent under section 53 of the Planning Act; the approval of a description under section 50 of the Condominium Act or the issuance of a building permit under the Building Code Act, 1992 in relation to a building or structure.
  - (d) No more than one development charge for each service designation in subsection 4 shall be imposed upon the land to which this by-law applies even though two or more of the actions described above in subsection 11(c) hereof are required for the land to develop unless the two or more actions occur at different times and result in any increase or additional development permitted by such action.
  - (e) No building permit shall be issued for any building or structure in respect of which the development charge eligible hereunder remains unpaid.
  - (f) An owner who has secured the necessary approvals may demolish and replace existing dwelling units without being subject to development charges under this by-law to the extent the existing units are replaced by new dwelling units only, however, any additional development for residential use, in excess of the existing number of dwelling units shall be subject to the provisions of this by-law.
  - (g) Notwithstanding Clauses 11 (a) through (e), the Town of Amherstburg may enter into an agreement that provides for payment of the development charges at any time that Council decides is appropriate.
12. Nothing in this By-Law prevents Council from requiring, as a condition of approval under Sections 51 or 53 of the Planning Act, that the owner, at his own expense, install such local services as Council may require or that the owner pay for local connections to watermains, sanitary sewers and storm drainage facilities installed at the owner's expense.
  13. Council may, from time to time, grant full or partial exemption from the development charges provided in this By-Law as shown on Schedule "B" hereto.
  14. The development charges established hereunder shall be increased without amendment to this By-Law annually on the 1<sup>st</sup> of October in each year commencing on October 1<sup>st</sup>, 2010, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics" (catalogue 62-007) to reflect any increase in the annual rate of inflation.
  15. Council, by written agreement, may permit an owner to commute the whole or such part of the development charge applicable to the owner's development, as may be specified in the agreement, by the provision at the owner's sole expense 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 otherwise applicable to his development equal to the reasonable cost of providing the services in lieu.

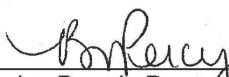
16. In any agreement made under Section 15, Council may also give a further credit equal to the owner's reasonable cost of providing services in addition to or of a greater size or capacity than would be required under this By-Law.
17. Any dispute as to the reasonable cost of providing the services in lieu or the services mentioned in Section 16 above, shall be referred to the Town of Amherstburg's Engineer whose decision shall be final and binding.
18. A copy of this By-Law may be registered against such lands in the Town of Amherstburg as Council by resolution from time to time may direct.
19. Any amount of development charge which remains unpaid after the date specified in Section 11 shall be added to the tax roll and collected as unpaid taxes.
20. This By-Law shall be administered by the Treasurer of the Town of Amherstburg.
21. By-Law 2004-64 of the Town of Amherstburg is hereby repealed effective on the date this By-Law comes into force.
22. Notwithstanding the repeals in Section 21 above, any agreement made under Sections 51 or 53 of the Planning Act, before the date of this By-Law comes into force which provides for the payment of a development charge shall remain in full force and effect and be enforceable according to its terms.
23. The Treasurer in calculating the development charge payable under Section 5, 6, 7 and 8 above, shall deduct from the development charge otherwise payable any amount paid after this By-Law comes into force pursuant to an agreement mentioned in Section 22 above.
24. Notwithstanding any other provisions of this By-Law, where an application for building permit is submitted to the Building Department prior to the date upon which public notice of the intention to pass this By-Law was given under the Act, then the rate or amount of the development charge in effect prior to the date of giving notice of the intention to enact this By-Law shall apply.
25. Council directs the Treasurer to create a reserve fund separate from the other reserve funds of the Town of Amherstburg, including reserve funds created or administered under Section 165 of the Municipal Act. The Treasurer shall deposit the development charges paid under this By-Law into the appropriate account of the reserve fund created by Section 26 below, and shall pay from the appropriate account any amounts necessary to defray the net capital cost of the services.
26. Council further directs the Treasurer to divide the reserve fund created hereunder into the following separate accounts to which development charge payments and interest earned thereon shall be credited in the percentages shown in Schedule "A" opposite the account name.
27. The amounts contained in the reserve fund established under Section 25 above, shall be invested in accordance with Subsection 165(2) of the Municipal Act and any income received from such investment shall be credited to the accounts in the said reserve fund in the proportions determined by the balances in the accounts listed in Section 26 above, as of December 31 of the previous year.
28. Where any unpaid development charges are collected as taxes under Section 19 above, the money so collected shall be credited to the accounts in the said reserve fund in the proportions provided for in Section 26 above.

29. The Treasurer of the Municipality shall, in each year on or before March 31, furnish to Council a statement in respect of the reserve fund for the prior year established hereunder containing the information required under the Regulation.
30. If this By-Law is amended or repealed by Council or the Ontario Municipal Board, the Treasurer shall determine within 30 days of the amendment or repeal whether any owner has overpaid in respect of the development charge payable hereunder immediately prior to the repeal or amendment of this By-Law and if such an overpayment has been made, the Treasurer shall calculate the amount of such overpayment.
31. Any overpayment determined under Section 30 above, shall be paid to the person who made the payment by his or her last known address within 30 days of the date of the repeal or amendment of this By-Law.
32. If the owner cannot be found or his or her last address is unknown, then the repayment obligation under Section 31 above, is at an end.
33. The refund payable under Section 31 above, shall be paid with interest calculated from the date upon which the overpayment was collected to the date on which the refund is made. Such interest shall be paid at the Bank of Canada rate in effect from time to time from the date of enactment of this By-Law as adjusted in Section 34 below.
34. The Bank of Canada rate in effect on the date of enactment of this By-Law shall be adjusted on the first business day of October, 2010 to the rate established by the Bank of Canada on that day and shall be adjusted four times each year thereafter on the first business day of January, April, July and October to the rate established by the Bank of Canada on the day of the adjustment.
35. This By-Law shall continue in force and effect for a term of five (5) years from the date of its enactment.
36. This By-Law comes into force on the date it is given third and final reading.

READ A FIRST AND SECOND TIME THIS 9<sup>th</sup> DAY OF NOVEMBER 2009.

READ A THIRD TIME AND FINALLY PASSED THIS 9<sup>th</sup> DAY OF NOVEMBER, 2009.

  
\_\_\_\_\_  
Mayor - Wayne Hurst

  
\_\_\_\_\_  
Clerk - Brenda Percy



**SCHEDULE "A"**  
**TO**  
**BY-LAW NUMBER 2009-81**

**Residential Development**

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<b><u>CATEGORY OF SERVICE</u></b>	<b>LOCATION OF DEVELOPMENT</b>	
	<b><u>Within Serviced Areas*</u></b>	<b><u>Outside Serviced Areas</u></b>
Fire Protection	1.0 %	1.6 %
Police Department	1.4 %	2.5 %
Parks & Recreation	3.0 %	5.7 %
Public Works	48.3 %	90.2 %
Sanitary Sewerage	<u>46.3 %</u>	<u>0.0 %</u>
<b>TOTAL</b>	<b>100.0 %</b>	<b>100.0 %</b>

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\*Refer to Schedule "C" for the delineation of Sanitary Service Areas.

**SCHEDULE "B"**  
**TO**  
**BY-LAW NUMBER 2009-81**

**Development Charge Per Dwelling Unit**

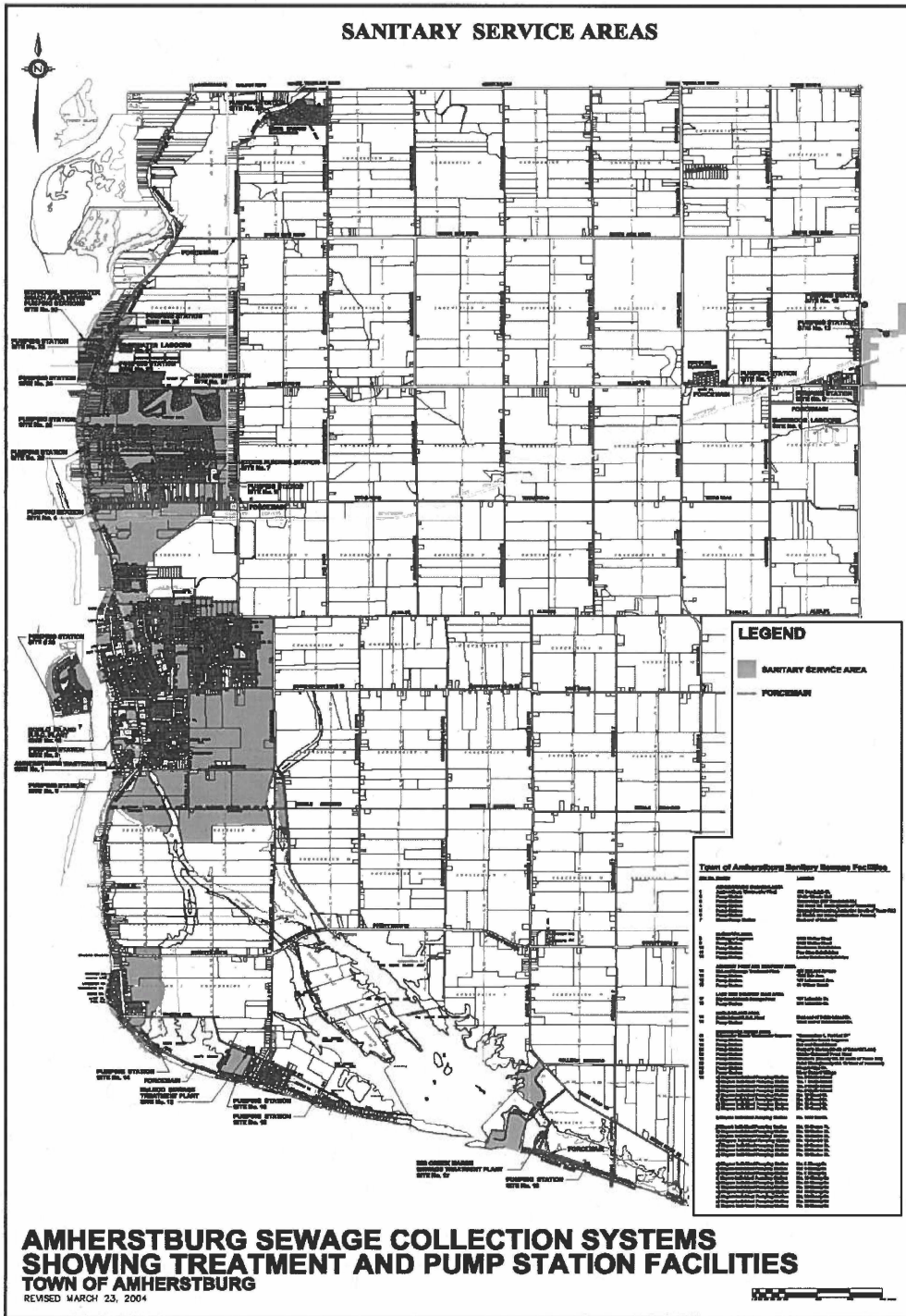
<b>LOCATION OF DEVELOPMENT</b>	<b>Single Detached</b>	<b>Apartments</b>	<b>Semi-Detached, Duplex, Townhouse &amp; Other</b>
<b>Within Serviced Area**^:</b>	<b>\$ 9,560*</b>	<b>\$ 8,570*</b>	<b>\$ 9,013*</b>
<b>Outside Serviced Area:</b>			<b>\$ 5,075</b>

\*Notwithstanding the above, the development charge shall be reduced by \$1,422.28 for one dwelling unit per lot for vacant lots already assessed a charge under the Malden Sewage Project.

^Notwithstanding the above, for existing and future lots on Boblo Island that are subject to a water works charge under by-law 2002-83, the watermain portion of the development charge shall be reduced by \$247.07 per dwelling unit.

\*\*Refer to Schedule "C" for the delineation of Sanitary Service Areas.

**SCHEDULE "C"**  
**TO**  
**BY-LAW NUMBER 2009-81**



**SCHEDULE "D"**

**TO**

**BY-LAW NUMBER 2009-81**

**List of Properties Assessed a Sewer Charge  
Under the Malden Sewage Project**

The following properties were subject to a sewer charge under the Malden Sewage Project in 2002. The development charge amount in Schedule "B" of this By-Law shall be reduced by \$1,422.28 for one dwelling unit per lot for properties with the following assessment roll numbers:

<u>Line</u>	<u>Roll Number</u>	<u>Line</u>	<u>Roll Number</u>	<u>Line</u>	<u>Roll Number</u>
(1)	510000097000000	(44)	540000141000000	(86)	540000269000000
(2)	510000101000000	(45)	540000142000000	(87)	540000274000000
(3)	510000145000000	(46)	540000143000000	(88)	540000276500000
(4)	510000156000000	(47)	540000144000000	(89)	540000279000000
(5)	510000183000000	(48)	540000145000000	(90)	540000281000000
(6)	510000189010000	(49)	540000145050000	(91)	540001110000000
(7)	510000210000000	(50)	540000149000000	(92)	550000009000000
(8)	510000211000000	(51)	540000151000000	(93)	550000016000000
(9)	510000212000000	(52)	540000152000000	(94)	550000037000000
(10)	540000009010000	(53)	540000156000000	(95)	550000038000000
(11)	540000018000000	(54)	540000159000000	(96)	550000040000000
(12)	540000020000000	(55)	540000166000000	(97)	550000040100000
(13)	540000035000000	(56)	540000166100000	(98)	550000040120000
(14)	540000037000000	(57)	540000166150000	(99)	550000040130000
(15)	540000060000000	(58)	540000168000000	(100)	550000040200000
(16)	540000063000000	(59)	540000169000000	(101)	550000040250000
(17)	540000083000000	(60)	540000169010000	(102)	550000040500000
(18)	540000085000000	(61)	540000169020000	(103)	550000041000000
(19)	540000087000000	(62)	540000170000000	(104)	550000041200000
(20)	540000090000000	(63)	540000171000000	(105)	550000041900000
(21)	540000091000000	(64)	540000174000000	(106)	550000043000000
(22)	540000092000000	(65)	540000175000000	(107)	550000043300000
(23)	540000093000000	(66)	540000176000000	(108)	550000043400000
(24)	540000094000000	(67)	540000176010000	(109)	550000047100000
(25)	540000095000000	(68)	540000177000000	(110)	550000047200000
(26)	540000099000000	(69)	540000191000000	(111)	550000047300000
(27)	540000100000000	(70)	540000196000000	(112)	550000051000000
(28)	540000101000000	(71)	540000219500000	(113)	550000052000000
(29)	540000102000000	(72)	540000231000000	(114)	550000073300000
(30)	540000103000000	(73)	540000235000000	(115)	550000073700000
(31)	540000104000000	(74)	540000238000000	(116)	550000076000000
(32)	540000105000000	(75)	540000240000000	(117)	550000086000000
(33)	540000107000000	(76)	540000242000000	(118)	550000098100000
(34)	540000108000000	(77)	540000245000000	(119)	550000098200000
(35)	540000110000000	(78)	540000249000000	(120)	550000113000000
(36)	540000111000000	(79)	540000251000000	(121)	550000114400000
(37)	540000112000000	(80)	540000257500000	(122)	550000114600000
(38)	540000114000000	(81)	540000258000000	(123)	550000188000000
(39)	540000115000000	(82)	540000262000000	(124)	550000199000000
(40)	540000122000000	(83)	540000266000000	(125)	550000210000000
(41)	540000123000000	(84)	540000267000000	(126)	550000212000000
(42)	540000126000000	(85)	540000268000000	(127)	550000217000000
(43)	540000128000000				