

Minutes of a Public Meeting of Amherstburg Council held on July 14, 2004.

**PRESENT**

Mayor Wayne Hurst  
Councillor Robert Bailey  
Councillor Gord Freeman  
Councillor Carl Gibb  
Councillor Paul Renaud  
Councillor Rosa White

**ABSENT**

Deputy Mayor Anthony Leardi with prior notice

**ALSO PRESENT**

Hilary Payne, CAO  
David Mailloux, Clerk  
Lory Bratt, Planning Coordinator  
Jean Monteith of Monteith Brown Consultants  
Steve Wever of Monteith Brown Consultants

The meeting was held to hear comments from the Public on the proposed Development Charges By-Law.

There were no Declarations of Conflict of Interest.

Mayor Hurst welcomed those present and requested that the Town Planner Jean Monteith explain the process that was taking place to adopt a new Development Charges By-Law.

A background study was prepared and has been available since June 22, 2004. Through a power point presentation, Mrs. Monteith explained the highlight of the proposed bylaw.

Mayor Hurst then called for comments from the audience.

Cindy Prince representing Greg McLeod the Court appointed Receiver for Boblo Island had several questions and comments relating to the Boblo Island lands.

Note: Attached to these minutes is a summary prepared by Jean Monteith of the comments made at this meeting.

Mr. Domenic Amicone also had questions and comments specifically related to Boblo Island.

Norbert Bolger of Norbuilt Construction asked about an allowance made for Commercial and Industrial Development in calculating the Development Charges.

Jean Monteith responded that there would be an amendment to the Development Charges By-law when Commercial or Industrial development takes place.

Mr. Bolger made the general comment that although the Town has been collecting Development Charges in the past, there is presently no capacity in some areas.

Jean Monteith explained that the Ministry of Environment has changed standards.

Lory Bratt commented that the Town is presently doing a study to detect water "inflow" problems. If infiltration problems are corrected, the capacity for new development could be increased.

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Bill Docherty Jr. stated that he believed the proposed fees are reasonable.

Mike Dinchuk of the Greater Windsor Home Builders asked if the effective date of the new Bylaw could be delayed to allow current buyers of lots to pull permits.

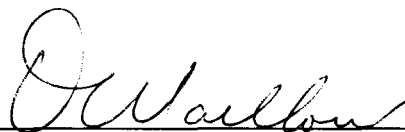
Cindy Prince requested to be advised of any future meetings relating to the Development Charges Bylaw.

Mayor Hurst stated that it was important to keep Development Charges fees as low as possible especially for our young people because prices of new homes will reflect the charges.

Being no further business, Mayor Hurst thanked everyone for attending and the meeting adjourned.

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MAYOR



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CLERK



# Memo

**To:** Mayor and Members of Council, Town of Amherstburg  
**From:** Jean Monteith, Principal Planner  
**Date:** 08/04/04  
**Re:** Development Charges By-law and Background Study Addenda

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A number of comments were received regarding the proposed development charges background study and by-law at the statutory public meeting held on July 14, 2004. The following is a summary of the issues identified and the necessary revisions to the development charges background study and by-law to address these issues. The revisions to the Development Charges Background Study are attached as Addendum No. 1. The revised Development Charges By-Law is also attached.

## 1. Boblo Island

The application of the proposed Development Charges to development on Boblo Island was a primary concern identified at the public meeting. Several questions were raised regarding the current and future ownership and capacity of the Boblo Island Sewage Treatment Plant, the provision of fire protection and road maintenance services to the Island, and the relationship between proposed development charges for watermains and existing charges levied to development on the Island for the watermain crossing from the mainland.

Section 4.3.3 (2) of the Background Study (page 19) indicates that the Town assumed control of the Boblo Island Sewage Treatment plant in April 2003. However, at the meeting it was indicated that the plant is not yet under Municipal ownership. This does not impact the calculation of development charges since future Municipal acquisition of the plant is anticipated prior to any additional capacity upgrades at the plant. Section 4.3.3 (2) of the Background Study has been corrected to reflect the current private ownership of the plant.

Questions were also raised at the public meeting regarding the projected increase of 207 new dwelling units on the Island by the year 2021 and how this projection relates to the sewage treatment plant capacity of 145 units specified in the development agreement. Population and dwelling unit projections for each sanitary service area are based on the residential growth forecast for Traffic Area Zones (TAZ) in the Town of Amherstburg completed as part of the Regional Transportation Study. The number of units in each zone were determined through combining information from the land use survey prepared by Monteith Brown Planning Consultants in 1998 for the Town's Official Plan, Zoning Maps and recent building permit activity. 2001 Census data was also used to verify the

accuracy of the counts (total population and total private dwellings). The Development Charges Background Study further combines this information with an analysis of registered/final approved plans of subdivision, draft approved plans of subdivision, applications for plans of subdivision submitted for future development lands, and a determination of the potential number of units that could be accommodated on vacant residential lands (designated in the Official Plan) based on land area and density calculations.

There are two Traffic Area Zones that cover Boblo Island: TAZ #1621 covers the northerly half of the island and TAZ #1664 covers the southerly half as well as a small portion of the mainland. Since the public meeting, we have revisited the lot supply and building permit data for TAZ #1621 with the assistance of Town Staff. The result of this review is summarized below.

There are currently 100 existing dwelling units within TAZ #1621 (northerly half of Boblo), including 61 single detached dwellings and 39 condominium units. In addition to these existing units, there is a total existing and potential vacant lot supply of 112 lots within TAZ #1621. In total there are 212 existing and potential dwelling units within TAZ #1621.

There are no existing dwelling units within TAZ #1664. Based on land area and density calculations, the southerly half of Boblo Island could accommodate 488 dwelling units. Overall, the whole of Boblo Island could accommodate a total of 700 dwelling units (212 + 488 = 700). However, the cost of increasing the capacity of the Boblo Island Sewage Treatment Plant which has been included in the development charges calculation would only allow for a total of 200 units to be built beyond the 145 units to be serviced by the capacity of the existing plant. Therefore, it is conservatively estimated that the growth in number of dwelling units on the south part of the island will be 133 units to the year 2021. The following table summarizes the number of existing dwelling units and projected growth in number of units for TAZ #1621 and 1664.

TAZ	Data Source	Existing Residential Units (Built)	Projected Growth in # of Units to 2021	Potential Total # of Units (2021)
1621	Building permit data, plans of subdivision submitted and Harbourview Condominium Plan	100	112	212
1664*	Land area and density calculations**	0	133	133
<b>TOTAL</b>		100	245	345

\*Note: the units within the mainland portion of TAZ #1664 are excluded.

\*\*Based on a density of 3.5 units per acre.

Participants at the public meeting requested clarification of what units/areas on Boblo Island are exempt from the proposed development charges and which are not exempt based on the provisions of existing development agreements. The following is a summary of the development agreements currently in place on the Island and their relationship to development charges.

**By-Law 96-4**

In 1996 the Township of Malden permitted the severance of 52 individual lots in the north west part of Boblo Island. A condition of the consent agreement is that a more complete review of the sanitary sewerage treatment system (at that time the Boblo Island treatment lagoon) be undertaken prior to the approval of any development beyond 52 lots. The agreement also provides for the replacement of the lagoon with an approved sewage treatment facility at the owner's expense. Prior to the issuance of a building permit for each dwelling constructed on the 52 lots, the agreement requires payment of \$1,000 per lot to the Township to be used for any costs related to the sanitary sewage treatment system as it existed at that time. Once the existing lagoon system was decommissioned,

the agreement specifies that the balance of this fund was to be turned over to the owner to be used toward the cost of providing a new treatment system for the 52 lots and future development.

#### By-Law 96-11

This Sanitary Sewage Treatment System Agreement specifies that repair and maintenance costs associated with the sewage treatment facility on Boblo Island are the responsibility of the owner and requires a review of the plant's performance prior to issuance of more than 52 building permits.

#### By-Law 97-9

In 1997, the owner requested that the Township of Malden further amend the development agreement to permit the servicing of additional lands on Boblo Island (central part of Boblo Island). An agreement was executed to allow the installation of a Rotordisk sewage treatment system at the owner's expense. This agreement specifies that the owner shall install the treatment facility within two years and maintain it for seven years, and the Township of Malden shall assess a sewage rate for maintenance and operation of the system after seven years. The agreement also provides for the conveyance of the lagoon lands to the owner after the lagoons are decommissioned. Under the terms of this agreement, the Township of Malden collected \$1500 for each building permit and paid this amount to the owner of the plant.

#### By-Law 2002-08

This agreement between the Town of Amherstburg and Island Cove Development Ltd. specifies that Sanitary sewage capacity on Boblo Island is to be determined by way of a Certificate of Approval issued by the Ministry of the Environment and Energy. The agreement states that a C.O.A. was issued by the Ministry which identifies that the capacity of the current servicing infrastructure is 145 units, with 66 building permits issued to-date (2002). Therefore, under the terms of the agreement building permits for an additional 79 units shall be available upon request. Any units in excess of these 79 require that the owner arrange for additional treatment capacity at its own expense, subject to Ministry approval. The agreement also specifies that any further such units will be subject to a development agreement which shall include the provisions for development charges in accordance with the Town's development charges by-law in affect at the time.

Since 2002, the Harbourview Condominiums (39 units) have been constructed on Boblo Island. Of the 66 building permits issued for single detached dwellings, as identified in the 2002 agreement, only 61 single detached dwellings were built. In total, there are 100 dwelling units currently existing on the Island (61 single detached dwellings + 39 condominium units = 100 units). Based on the terms of the above agreement, an additional 45 dwelling units may therefore be constructed on the existing capacity of the sewage treatment plant. These units would not be subject to development charges, however any units constructed in excess of 45 dwelling units would require additional sewage treatment capacity and would therefore be subject to a development agreement which shall include provisions for the collection of development charges in accordance with the Town's development charges by-law. A preliminary engineering estimate indicates that the cost of increasing the capacity of the Boblo Island plant is \$600,000 for each 500 persons (approx. 200 households) of treatment capacity. This amount has been included in the combined total cost for all sewage treatment systems in the Town of Amherstburg in the calculations shown in the Development Charges Background Study.

Section 17 (b) of the Development Charges By-Law specifies that any agreement made under Sections 51 or 53 of the Planning Act prior to enactment of the Development Charges By-Law which provides for the payment of a development charge shall be enforceable according to its terms. Therefore no additional provisions are required in the Development Charges By-Law to exempt the first 145 dwelling units on Boblo Island from payment of a development charge.

### Boblo Island Watermains

Another issue raised at the public meeting was whether or not development on Boblo Island should be subject to the watermain portion of the development charge since development on the island is already assessed a charge for the construction of a watermain from the mainland to Boblo under a separate water rate by-law (By-law 2002-83). Eligible development charges associated with the costs of watermain construction were calculated collectively as a Town-wide service in the Development Charges Background Study. The cost of the watermain crossing to Boblo Island could not be included in the development charge calculation since a water rate by-law is already established to recover the Town's portion of the cost from development on the Island. If the water rate by-law were not in place, the cost of the watermain crossing would have been included in the collective watermain costs and would have become part of the Town-wide development charge. Accordingly, future residential development on Boblo Island, including the lands identified in By-law 2002-83, should be exempt from the watermain portion of the development charge in the new Development Charges By-law. Addendum No. 1 (attached) describes the necessary revisions to the Development Charges Background Study to incorporate this change.

### Boblo Island Fire Protection and Road Maintenance

There was a question raised at the meeting about fire and winter road control services to the Island. Town staff confirmed that these services are provided to Boblo Island and therefore no changes to the development charges are required to address this concern.

## **2. Police Cruisers**

Participants at the public meeting indicated that the useable life of marked and unmarked police cruisers and police motorcycles is less than seven years. Rolling stock with a useful life of less than seven years cannot be included in the Development Charge calculation under the provisions of section 5(3) of the Development Charges Act (1997). The eligible development charge for Police Services has therefore been re-calculated to exclude these vehicles (see Addendum No. 1).

## **3. Road Grader**

During the public meeting, it was questioned whether the Town still required a Road Grader and whether including the cost of the road grader in the eligible development charge is justified. It has been confirmed with the Town's Public Works Staff that a Road Grader is and will continue to be required for use in road maintenance (gravel roads, gravel shoulders, etc.) and snow removal activities. Therefore this replacement cost should not be removed from the development charge calculation and no changes to the Background Study or Development Charges By-law are required to address this concern.

## **4. Computer Equipment**

The Development Charges Act (1997) specifies that computer equipment cannot be included in the calculation of the eligible development charge. Participants at the public meeting correctly identified that the leased computer system included as a cost in Table 3.1 under Police Services cannot be included in the calculation of eligible development charges. Table 3.1 of the Development Charges Background Study has been revised to incorporate this change (see Addendum No. 1).

## **5. Timing for Implementation of New Development Charges By-Law**

There was a question raised at the meeting about the timing for implementation of the new development charges by-law. In accordance with section 8 of the Development Charges Act (1997), a Development Charges By-Law comes into force on the day it is passed or the day specified in the by-law, whichever is later. To ensure there are no gaps between the expiry of the previous

development charges by-law and enactment of the new development charges by-law, the Town should proceed to enact the proposed new by-law prior to September 2, 2004.

Section 12(3) of the Development Charges Act (1997) provides that if a proposed Development Charges By-Law is changed following the statutory public meeting, the Council shall determine whether a further public meeting is necessary. This determination is final and not subject to review by a court or the Ontario Municipal Board. The changes to the proposed development charges by-law resulting from the statutory public meeting held July 14, 2004 are minor and it is recommended that no additional public meetings are necessary prior to enactment of the By-law.

Sincerely,

**Monteith Brown Planning Consultants**

Jean Monteith, B.E.S., MCIP, RPP  
Principal Planner

enc.

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# Town of Amherstburg Development Charges Background Study

## Addendum No. 1

The following changes to the Town of Amherstburg Development Charges Background Study (June 2004) are required in response to the issues raised at the statutory public meeting held on July 14, 2004.

1. The third paragraph of Section 2.3 on page 7 of the Development Charges Background Study, which currently reads as follows,

*"Also within this settlement area, Bois Blanc (Boblo) Island has a total of 207 residential dwelling units remaining to be developed, including 168 single detached building lots and 39 condo units. The lots on the Island, due to the exclusive nature of the development and the necessity of utilizing a ferry boat for access, represent a unique lifestyle choice. Potential purchasers may come from a far larger market base than the area currently enjoys. These lots are therefore not seen as meeting the projected demand generated by the local population."*

is removed and replaced with the following:

*"There are currently 100 existing dwelling units on Bois Blanc (Boblo) Island, including 61 single detached dwellings and 39 condominium units. In addition to these existing units, there is a total existing and potential vacant lot supply of 112 lots on the northerly half of the Island, and lands comprising the southerly half of the Island could accommodate 488 units based on land area and density calculations. Although the overall land area of the Island could accommodate a total of 700 dwelling units, the capacity of the existing sewage treatment plant and a unit upgrade to the plant would only provide capacity for 345 dwelling units. Therefore, the growth in number of residential units on the Island is estimated to be 245 units (345 units less 100 existing = 245 units) to the year 2021.*

*The lots on the Island, due to the exclusive nature of the development and the necessity of utilizing a ferry boat for access, represent a unique lifestyle choice. Potential purchasers may come from a far larger market base than the area currently enjoys. These lots are therefore not seen as meeting the projected demand for housing generated by the local population, but they do contribute to the increased need for services."*

2. The second paragraph of Section 3.4 on page 13 of the Development Charges Background Study, which currently reads as follows,

*"The level of service reached over the past 10 years ranged from 8 police cruisers for 3,326 households which equates to one cruiser per 416 dwelling units (based on former Amherstburg and Anderdon only as portions of Malden had provincial police coverage) to 10 cruisers for 7,980 households which equates to one cruiser per 798 dwelling units. Therefore, the 10-year average of police cruisers per household is one cruiser per 607 dwelling units. As the number of dwelling units in the Town is projected to increase by 3,076 between 2003 and 2021, a total of 5.07 additional cruisers will be required."*

is removed.

3. Table 3.1 of the Development Charges Background Study is revised by removing the following items from the calculation of eligible development charges for Police Department Services:

*Leased Computer System  
Marked Police Cruisers  
Unmarked Police Cruisers  
Police Motorcycle*

The total eligible development charge for Police Department Services in Table 3.1 is recalculated from \$67.07 to \$57.46. The last line of Table 3-1, Total Development Charges, is re-calculated from \$534.38 to \$524.77.

4. Section 4.3.2 Watermains on page 18 of the Development Charges Background Study, which currently reads as follows,

*"Watermains are required on Lowes Sideroad (between Fryer Street and Meloche Sideroad), Dalhousie Street, Fort Street, and Park Street. It will also be necessary to loop the 12-inch diameter Meloche Road sub-feeder main to the 20-inch diameter feeder main on Fryer Street with a new 12-inch diameter watermain. These upgrades will create excess capacity to serve development beyond the projected housing demand, and therefore the eligible development charges for this service have been offset by 36.88% in recognition of the potential for an additional 1,798 units in the designated areas south of Lowes Sideroad.*

*A new 12-inch diameter watermain crossing from the Amherstburg Water Treatment Plant on the mainland to Boblo Island is required to maintain the current standard of water supply services and provide additional capacity. In 2002, the Town passed a water rate by-law (By-Law 2002-83) to recover a portion of the costs through the development process. Therefore, none of the costs associated with the construction of this watermain are eligible for development charges."*

is removed and replaced with the following:

*"Watermains are required on Lowes Sideroad (between Fryer Street and Meloche Sideroad), Dalhousie Street, Fort Street, and Park Street. It will also be necessary to loop the 12-inch diameter Meloche Road sub-feeder main to the 20-inch diameter feeder main on Fryer Street with a new 12-inch diameter watermain.*

*A new 12-inch diameter watermain crossing from the Amherstburg Water Treatment Plant on the mainland to Boblo Island is required to maintain the current standard of water supply services and provide additional capacity. In 2002, the Town passed a water rate by-law (By-Law 2002-83) to recover a portion of the costs through the development process. Therefore, none of the costs associated with the construction of this watermain are eligible for development charges, and the calculation of development charges for watermains does not include the existing and potential residential lot supply on Boblo Island. The lands subject to By-Law 2002-83 should be exempt from the watermain portion of the development charge since they are already being assessed a separate charge for watermains.*

*The above upgrades will create excess capacity to serve development beyond the projected housing demand, and therefore the eligible development charges for this service have been offset by 38.47% in recognition of the potential for an additional 1,798 units in the designated areas south of Lowes Sideroad."*

5. Section 4.3.3 (2) on page 19 of the Development Charges Background Study, which currently reads as follows,

*"In April 2003 the Town assumed control of the Boblo Island Pollution Control Plant, which was previously owned and operated privately. Currently the capacity of the plant is approximately 145 households (Chevalier, 2003). The plant requires additional capacity to accommodate the projected increase of 207 new residential units on the island by 2021."*

is removed and replaced with the following:

*"The Boblo Island Pollution Control plant is currently in private ownership. The capacity of the plant is approximately 145 households (Chevalier, 2003). A development agreement is currently in place which specifies that any development in excess of 145 units will be subject to a new development agreement which shall include provisions for development charges in accordance with the Town's development charges by-law. There are currently 61 existing single detached dwellings and 39 condominium units on the Island, for a total of 100 dwelling units. The existing plant therefore has capacity remaining for 45 dwelling units and requires upgrading to provide capacity to accommodate the projected increase of 245 new residential units on the island by 2021."*

6. Table 4-2 of the Development Charges Background Study is revised by recalculating the eligible development charges for watermains from \$232.95 to \$242.88 and adding the following footnote:

*\*\*\* Existing and future lots on Boblo Island that are subject to By-Law 2002-83 have been excluded from the calculation of eligible development charges for watermains. These lots should be exempt from the watermain portion of the development charge since a charge for water works has been or will be assessed to these lands under a separate by-law.*

The percentage excess capacity for watermains in Table 4-2 is recalculated from 36.88% to 38.47% and the subtotal of eligible development charges for watermains in Table 4-2 is recalculated from \$232.95 to \$242.88. The last line of Table 4-2, Total - Sanitary Services, is recalculated from \$5,833.03 to \$5,842.95. The following footnote is added to Table 4-2:

*\*\* 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 should be reduced by \$247.07 per dwelling unit.*

7. Section 5.2 Calculated Development Charges on page 21 of the Development Charges Background Study is revised by changing the total adjusted development charges for lots on full services from \$7,776.14 per dwelling unit to \$7,776.56 per dwelling unit and changing the total adjusted development charges for lots outside the sanitary service areas from \$2,652.61 per dwelling unit to \$2,653.03 per dwelling unit, and by adding the following footnote:

*\*\* 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 should be reduced by \$247.07 per dwelling unit.*

8. Table 5-1 of the Development Charges Background Study is revised by recalculating the total eligible development charges for Town-Wide Soft Services from \$534.38 to \$524.77 and recalculating the

total eligible development charges for Town-Wide Hard Services from \$1,968.16 to \$1,978.09. The last line of the table, Total - Town-Wide Services is recalculated from \$2,502.55 to \$2,502.86. The following footnote is added to Table 5-1:

*\*\* 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 should be reduced by \$247.07 per dwelling unit.*

9. Table 5-3 of the Development Charges Background Study is revised by recalculating the total eligible development charges within the Sanitary Service Area from \$7,619.37 to \$7,619.68 and recalculating the total development charges Outside the Sanitary Service Area from \$2,502.55 to \$2,502.86.
  
10. Section 6.2 Reserve Fund on page 22 of the Development Charges Background Study is revised by changing the percentage allocation to the Police Department sub-account from 1.2% to 1.1% for development charges collected within the sanitary service area and from 2.8% to 2.5% for development charges collected outside the service area, and changing the percentage allocation for the Public Works sub-account from 37.0% to 37.2% for development charges collected within the sanitary service area and from 85.1% to 85.4% for development charges collected outside the sanitary service area.

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NUMBER 2004-64

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 June 2004, 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 14<sup>th</sup> of July, 2004, 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 June 22<sup>nd</sup>, 2004, at least two weeks prior to the public meeting held the 14<sup>th</sup> of July, 2004;

**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 June, 2004;

**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) "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.
- (f) "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.

(g) "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.

(h) "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.

(i) "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.

- (j) "Official Plan" means the Official Plan plus amendments of the Town of Amherstburg.
- (k) "Rate" means the interest rate established weekly by the Bank of Canada for Treasury Bills having a term of 30 days.
- (l) "Regulation" means any regulation made pursuant to the Act.
- (m) "Services" means those services, facilities, accommodations and things designated in this By-Law.
- (n) "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.
- (o) "Services in Lieu" means those services specified in an agreement made under Section 8 of this By-Law.
- (p) "Zoning By-Law" means the Zoning by-Law of the Town of Amherstburg plus amendments adopted.
- (q) "Development" includes redevelopment.
- (r) "Development Charge" means a charge imposed with respect to growth-related net capital costs against land under this By-Law.
- (s) "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.
- (t) "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.
- (u) "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;



- (v) "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.
  - (w) "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.
2. (a) 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.
- (b) Notwithstanding Subsection 2(a) 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;
  - (iii) the related upper or lower tier municipality, as the case may be, or any local board thereof.
3. 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)

4. (a) 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.
- (b) 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".
- (c) 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.

- (d) 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.
5. (1) Subject to subsection (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 (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;
6. Where two or more of the actions described in subsection 5 (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 5(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.

7. (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 3 shall be imposed upon the land to which this by-law applies even though two or more of the actions described above in subsection (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 7 (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.
8. 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.
9. 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.
10. The development charges established hereunder shall be adjusted without amendment to this By-Law annually on the 1<sup>st</sup> of August in each year commencing on August 1<sup>st</sup>, 2005, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics" (catalogue 62-007).
11. 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.
12. In any agreement made under Subsection 11(a), 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.

13. Any dispute as to the reasonable cost of providing the services in lieu or the services mentioned in Subsection 12 above, shall be referred to the Town of Amherstburg's Engineer whose decision shall be final and binding.
14. 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.
15. Any amount of development charge which remains unpaid after the date specified in Section 7 shall be added to the tax roll and collected as unpaid taxes.
16. This By-Law shall be administered by the Treasurer of the Town of Amherstburg.
17.
  - (a) By-Law 1999-46 of the Town of Amherstburg is hereby repealed effective on the date this By-Law comes into force.
  - (b) Notwithstanding the repeals in Subsection 17(a) 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.
  - (c) The Treasurer in calculating the development charge payable under Section 4 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 Subsection 17(b) above.
  - (d) 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.
18.
  - (a) 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 Subsection 18(b) below, and shall pay from the appropriate account any amounts necessary to defray the net capital cost of the services.
  - (b) 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.

- (c) The amounts contained in the reserve fund established under Subsection 18(a) 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 Subsection 18(b) above, as of December 31 of the previous year.
19. Where any unpaid development charges are collected as taxes under Section 15 above, the money so collected shall be credited to the accounts in the said reserve fund in the proportions provided for in Subsection 18(b) above.
20. 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.
21. (a) 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.
- (b) Any overpayment determined under Subsection 21(a) 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.
- (c) If the owner cannot be found or his or her last address is unknown, then the repayment obligation under Subsection 21(b) above, is at an end.
- (d) The refund payable under Subsection 21(b) 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 Subsection 21(e) below.
- (e) 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 August, 2005 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.

22. This By-Law shall continue in force and effect for a term of five (5) years from the date of its enactment.

23. 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 AUGUST, 2004.

READ A THIRD TIME AND FINALLY PASSED THIS 9<sup>th</sup> DAY OF AUGUST, 2004.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

**SCHEDULE "A"**  
**TO**  
**BY-LAW NUMBER 2004-64**

**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	1.6 %	3.8 %
Police Department	1.1 %	2.5 %
Parks & Recreation	3.6 %	8.3 %
Public Works	37.2 %	85.4 %
Sanitary Sewerage	<u>56.5 %</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 2004-64**

**Development Charge Per Dwelling Unit**

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<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>\$ 7,870*^</b>	<b>\$ 7,055*^</b>	<b>\$ 7,420*^</b>
<b>Outside Serviced Area:</b>			<b>\$ 2,650^</b>

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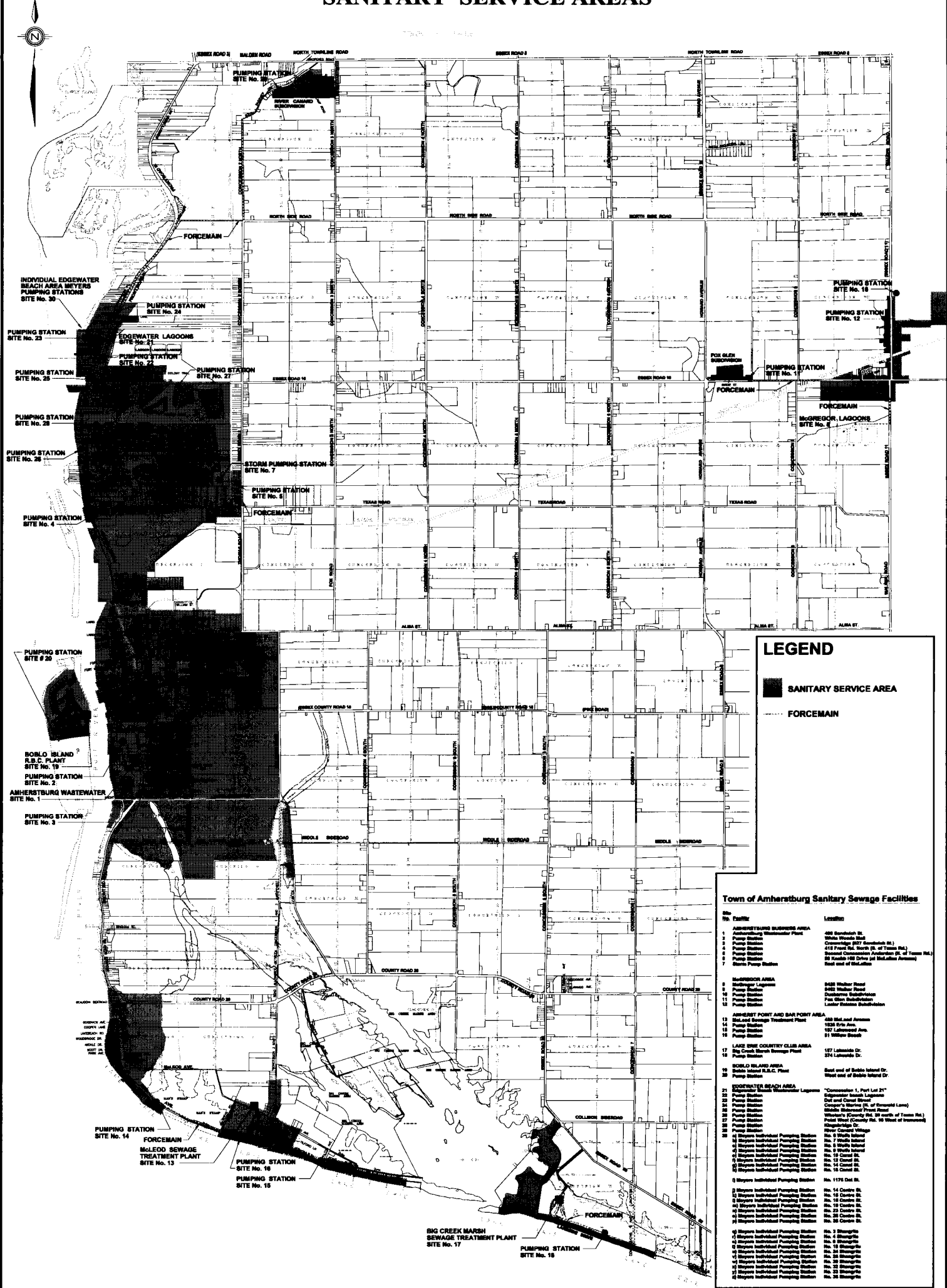
\*Notwithstanding the above, the development charge shall be reduced by \$1,422.28 for one dwelling unit per lot for vacant lots already assessed a charge under the Malden Sewage Project. Refer to Schedule "D" for the list of properties subject to this charge under the Malden Sewage Project.

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

^ Notwithstanding the above, the development charge shall be reduced by \$247.07 per dwelling unit for those lands on Boblo Island subject to By-Law 2002-83.

**Schedule "C"**  
**to By-Law Number 2004-64**

**SANITARY SERVICE AREAS**



**AMHERSTBURG SEWAGE COLLECTION SYSTEMS**  
**SHOWING TREATMENT AND PUMP STATION FACILITIES**  
**TOWN OF AMHERSTBURG**

REVISED MARCH 23, 2004



**SCHEDULE "D"**

**TO**

**BY-LAW NUMBER 2004-64**

**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)	51000097000000	(44)	54000014100000	(86)	54000026900000
(2)	51000010100000	(45)	54000014200000	(87)	54000027400000
(3)	51000014500000	(46)	54000014300000	(88)	54000027650000
(4)	51000015600000	(47)	54000014400000	(89)	54000027900000
(5)	51000018300000	(48)	54000014500000	(90)	54000028100000
(6)	51000018901000	(49)	54000014505000	(91)	54000111000000
(7)	51000021000000	(50)	54000014900000	(92)	55000009000000
(8)	51000021100000	(51)	54000015100000	(93)	55000001600000
(9)	51000021200000	(52)	54000015200000	(94)	55000003700000
(10)	54000009010000	(53)	54000015600000	(95)	55000003800000
(11)	54000001800000	(54)	54000015900000	(96)	55000004000000
(12)	54000002000000	(55)	54000016600000	(97)	55000004010000
(13)	54000003500000	(56)	54000016610000	(98)	55000004012000
(14)	54000003700000	(57)	54000016615000	(99)	55000004013000
(15)	54000006000000	(58)	54000016800000	(100)	55000004020000
(16)	54000006300000	(59)	54000016900000	(101)	55000004025000
(17)	54000008300000	(60)	54000016901000	(102)	55000004050000
(18)	54000008500000	(61)	54000016902000	(103)	55000004100000
(19)	54000008700000	(62)	54000017000000	(104)	55000004120000
(20)	54000009000000	(63)	54000017100000	(105)	55000004190000
(21)	54000009100000	(64)	54000017400000	(106)	55000004300000
(22)	54000009200000	(65)	54000017500000	(107)	55000004330000
(23)	54000009300000	(66)	54000017600000	(108)	55000004340000
(24)	54000009400000	(67)	54000017601000	(109)	55000004710000
(25)	54000009500000	(68)	54000017700000	(110)	55000004720000
(26)	54000009900000	(69)	54000019100000	(111)	55000004730000
(27)	54000010000000	(70)	54000019600000	(112)	55000005100000
(28)	54000010100000	(71)	54000021950000	(113)	55000005200000
(29)	54000010200000	(72)	54000023100000	(114)	55000007330000
(30)	54000010300000	(73)	54000023500000	(115)	55000007370000
(31)	54000010400000	(74)	54000023800000	(116)	55000007600000
(32)	54000010500000	(75)	54000024000000	(117)	55000008600000
(33)	54000010700000	(76)	54000024200000	(118)	55000009810000
(34)	54000010800000	(77)	54000024500000	(119)	55000009820000
(35)	54000011000000	(78)	54000024900000	(120)	55000011300000
(36)	54000011100000	(79)	54000025100000	(121)	55000011440000
(37)	54000011200000	(80)	54000025750000	(122)	55000011460000
(38)	54000011400000	(81)	54000025800000	(123)	55000018800000
(39)	54000011500000	(82)	54000026200000	(124)	55000019900000
(40)	54000012200000	(83)	54000026600000	(125)	55000021000000
(41)	54000012300000	(84)	54000026700000	(126)	55000021200000
(42)	54000012600000	(85)	54000026800000	(127)	55000021700000
(43)	54000012800000				