

THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW NO. 2018 - 54

**A By-law to establish municipal-wide development charges
for the Corporation of the Township of Essa.**

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

WHEREAS the Council of the Corporation of the Township of Essa ("Township of Essa") has given notice in accordance with Section 12 of the *Development Charges Act, 1997*, of its intention to pass a By-law under Section 2 of the said Act; and

WHEREAS the Council of the Township of Essa received a report entitled Development Charge Background Study, Township of Essa dated April 20 2018 prepared by Hemson Consulting Ltd., wherein it is indicated that the development of any land within the Township of Essa will increase the need for services as defined herein; and

WHEREAS the Council of the Township of Essa has heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charge proposal at a Public Meeting held on May 16, 2018 and provided a subsequent period for written communications to be made; and

WHEREAS the Council has given said communications due consideration, has made any necessary revisions to the Township of Essa Development Charges Background Study as a result of those communications, and has determined that no further public meetings are required in respect of the Background Study and the Development Charges By-Law; and

WHEREAS Council has given consideration to the use of more than one development charge by-law to reflect different needs for services in different areas, also known as area rating or area specific development charges, and has determined that for the services and associated infrastructure proposed to be funded by development charges under this by-law that it is fair and reasonable that the charges be calculated on both a municipal-wide uniform basis and area-specific basis for water and sewer services; and

WHEREAS the Council of the Township of Essa on June 20, 2018 approved the Development Charge Background Study dated April 2018, in which certain recommendations were made relating to the establishment of a development charge policy for the Township of Essa pursuant to the *Development Charges Act, 1997*.

NOW THEREFORE the Council of the Township of Essa enacts as follows:

DEFINITIONS

1. In this By-law,

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

- (2) "Accessory use" means a use of land, buildings or structures which is incidental and subordinate to the principal use of the lands and buildings;
- (3) "Agricultural use" means the bona fide use of lands and buildings for apiaries, fish farming, dairy farming, fur farming, the raising or exhibiting of livestock, or the cultivation of trees, shrubs, flowers, grains, sod, fruits, vegetables and any other crops or ornamental plants and includes the operation of a farming business and the erection of a farm help house on agricultural land but excludes a commercial greenhouse. Agricultural use does not include the development of a single detached dwelling on agricultural land;
- (4) "Apartment dwelling" means any residential unit within a building containing three or more dwelling units where access to each residential unit is obtained through a common entrance or entrances from the street level and the residential units are connected by an interior corridor and shall include dwelling units contained above or as part of commercial buildings;
- (5) "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;
- (6) "Board of Education" means a board defined in s.s. 1(1) of the *Education Act*;
- (7) "Building Code Act" means the *Building Code Act*, 1992, S.O. 1992, c.23, as amended;
- (8) "Building or Structure" means an enclosed area, including, but is not limited to, above grade storage tanks, air supported structures and industrial tents;
- (9) "Capital cost" means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or by others on behalf of, and as authorized by, the municipality or local board,
 - (a) to acquire land or an interest in land, including a leasehold interest;
 - (b) to improve land;
 - (c) to acquire, lease, construct or improve buildings and structures;
 - (d) to acquire, lease, construct or improve facilities including (but not limited to),
 - (i) rolling stock with an estimated useful life of seven years or more,
 - (ii) furniture and equipment, other than computer equipment, and
 - (iii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, R.S.O. 1990, c.P44, and

- (e) to undertake studies in connection with any of the matters referred to in clauses (a) to (d);
- (f) to complete the development charge background study under Section 10 of the Act;
- (g) interest on money borrowed to pay for costs in (a) to (d);

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

- (10) "Council" means the Council of The Corporation of the Township of Essa;
- (11) "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;
- (12) "Development charge" means a charge imposed pursuant to this By-law;
- (13) "Dwelling unit" means a room or suite of rooms used, or designed or intended for use by, one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;
- (14) "Farm building" means that part of a bona fide farm operation encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use;
- (15) "Grade" means the average level of finished ground adjoining a building or structure at all exterior walls;
- (16) "Local board" means a public utility commission, public library board, local board of health, or any other board, commission, committee or body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of the municipality or any part or parts thereof;
- (17) "Local services" means those services or facilities which are under the jurisdiction of the municipality and are related to a plan of subdivision or within the area to which the plan relates, and are 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 dwelling" means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;
- (19) "Municipality" means the Corporation of the Township of Essa;
- (20) "Non-residential uses" means a building or structure used for other than a residential use;

- (21) "Official plan" means the Official Plan of the Township of Essa 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) "Planning Act" means the *Planning Act*, R.S.O. 1990, c.P13, as amended;
- (24) "Primary Dwelling Unit" means a dwelling contained in the main building on a lot;
- (25) "Redevelopment" means the construction, erection or placing of one or more buildings or structures on land where all or part of a building or structure has been previously demolished on such land, or changing the use of a building or structure from a residential use to a non-residential use or from a non-residential use to a residential use, or changing a building or structure from one form of residential use to another form of residential use or from one form of non-residential use to another form of non-residential use;
- (26) "Regulation" means any regulation made pursuant to the Act;
- (27) "Residential uses" means lands, buildings or structures or portions thereof used, or designed or intended for use as a home or residence of one or more individuals, and shall include a single detached dwelling, a semi-detached dwelling, a multiple dwelling, an apartment dwelling, and the residential portion of a mixed-use building or structure;
- (28) Secondary Dwelling Unit – means a dwelling unit that is ancillary and subordinate to a primary dwelling unit that may be contained within the main building on a lot or in an accessory building on a lot, which:
 - (a) comprises an area less than or equal to 33% per cent of the gross floor area of the primary dwelling unit; and
 - (b) is not capable of being legally conveyed as a separate parcel of land from the primary dwelling unit.
- (29) "Semi-detached dwelling" means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;
- (30) "Services" means services set out in Schedule "A" to this By-law;
- (31) "Single detached dwelling" means a completely detached building containing only one dwelling unit.
- (32) "Total floor area" means,
 - (a) in the case of a residential building or structure, or in the case of a mixed-use building or structure with respect to the residential portion thereof, the aggregate of the total areas of all floors in the building or structure 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;

- (b) 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 aggregate of the total areas of all floors in the building or structure 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 separating a non-residential use from a residential use.

SCHEDULE OF DEVELOPMENT CHARGES

- 2. (1) Subject to the provisions of this By-law, development charges against land shall be imposed, calculated and collected in accordance with the base rates set out in Schedule "B" (Township Services), which relate to the services set out in Schedule "A".
- (2) Notwithstanding subsection 2(1), where there is development or redevelopment of land in Angus, as described in Schedule "C" of this By-law, the land shall also be subject to further development charges for sanitary sewer and water services that are specific to the lands in Angus, as set out in Schedule "B".
- (3) Notwithstanding subsection 2(1), where there is development or redevelopment of land in Thornton, as described in Schedule "D" of this By-law, the land shall also be subject to further development charges for water services that are specific to the lands in Thornton, as set out in Schedule "B".
- (4) Notwithstanding subsection 2(1), where there is development or redevelopment of land in Baxter, as described in Schedule "E" of this By-law, the land shall also be subject to further development charges for sanitary sewer that are specific to the lands in Baxter, as set out in Schedule "B".
- (5) The development charge with respect to the use of any land, buildings or structures shall be calculated as follows:
 - (a) in the case of residential development or redevelopment, or the residential portion of a mixed-use development or redevelopment, based upon the number and type of dwelling units;
 - (b) in the case of non-residential development or redevelopment, or the non-residential portion of a mixed-use development or redevelopment, based upon the total floor area of such development.
- (6) Council hereby determines that the development or redevelopment of land, buildings or structures for residential and non-residential uses will require the provision, enlargement or expansion of the services referenced in Schedule "A".

APPLICABLE LANDS

3. (1) Subject to subsections (2), (3), and (6), this By-law applies to all lands in the municipality, whether or not the land or use is exempt from taxation under Section 3 of the *Assessment Act*, R.S.O. 1990, c.A.31. As indicated in Section 2, the lands shown on Schedules "C", "D" and "E", will be subject to further development charges for sanitary sewer and water services that are specific to those lands, pursuant to subsections 2(2), 2(3) and 2(4) respectively.
- (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; and
 - (d) the creation of a Secondary Dwelling Unit
- (3) This By-law shall not apply to that category of exempt development described in subsection 2(3) of the *Development Charges Act, 1997*, and Section 2 of O.Reg. 82/98, namely:
 - (a) the enlargement of an existing dwelling unit or the creation of one or two additional dwelling units in an existing single detached dwelling where the total residential total floor area of the dwelling units created does not exceed the residential total floor area of the existing dwelling unit already in the single detached dwelling; or
 - (b) the creation of one additional dwelling unit in any other existing residential building provided the residential total floor area of the additional dwelling unit does not exceed the residential total floor area of the smallest existing dwelling unit in the case of a semi-detached dwelling, or does not exceed the residential total 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 total floor area of the additional one or two dwelling units is greater than the total gross floor area of the existing dwelling unit already in the single detached dwelling.
- (5) Notwithstanding subsection (3)(b), development charges shall be calculated and collected in accordance with Schedule "B" as the case may be, where the additional dwelling unit has a residential total floor area greater than,
 - (a) in the case of semi-detached dwelling or multiple dwelling, the gross floor area of the smallest existing dwelling unit, and
 - (b) in the case of any other residential building, the residential total floor area of the smallest dwelling unit.

- (6) This By-law does not apply to that category of exempt development described in section 4(2) of the Act and Section 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 made under the Act.
- (7) Notwithstanding subsection (6)(a), if the total floor area of an existing industrial building is enlarged by more than 50 percent, development charges shall be calculated and collected in accordance with Schedule "B" on the amount by which the enlargement exceeds 50 percent of the total floor area before the enlargement.
4. (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 or redeveloped for residential and non-residential use, where the development or redevelopment requires:
- (i) the passing of a Zoning By-law or an amendment thereto under Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13;
 - (ii) the approval of a minor variance under Section 45 of the *Planning Act*, R.S.O. 1990, c.P.13;
 - (iii) a conveyance of land to which a By-law passed under subsection 50(7) of the *Planning Act*, R.S.O. 1990, c.P.13 applies;
 - (iv) the approval of a plan of subdivision under Section 51 of the *Planning Act*, R.S.O. 1990, c.P. 13;
 - (v) a consent under Section 53 of the *Planning Act*, R.S.O. 1990, c.P.13;
 - (vi) the approval of a description under Section 50 of the *Condominium Act*, R.S.O. 1980, c.84; or
 - (vii) the issuing of a permit under the *Building Code Act*, R.S.O. 1990, c.B.13, in relation to a building or structure.
- (2) Subsection (1) shall not apply in respect to
- (a) local services installed or paid for by the owner within a plan of subdivision or within the area to which the plan relates, as a condition of approval under Section 51 of the *Planning Act*, R.S.O. 1990, c.P. 13;
 - (b) local services installed or paid for by the owner as a condition of approval under Section 53 of the *Planning Act*, R.S.O. 1990, c.P. 13.

LOCAL SERVICE INSTALLATION

5. Nothing in this By-law prevents Council from requiring, as a condition of an agreement under Section 51 or 53 of the *Planning Act*, that the owner, at his or her own expense, shall install or pay for such local services, as Council may require.

MULTIPLE CHARGES

6. (1) Where two or more of the actions described in subsection 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 subsection 4(1) occur at different times, or a second or subsequent building permit is issued, resulting in increased, additional or different development, and if the subsequent action has the effect of increasing the need for municipal services as set out in Schedule "A", an additional development charge on the additional residential units and non-residential total floor area, shall be calculated and collected in accordance with the provisions of this By-law.

SERVICES IN LIEU

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

DEVELOPMENT CHARGE CREDITS

8. If development or redevelopment involves the demolition of and replacement of a building or structure, or the conversion of one principal use to another:
 - (1) A credit shall be allowed against the development charges otherwise payable, provided that a building permit has been issued for the development or redevelopment within five years from the date the demolition permit or other

planning approval related to the demolition of a building or structure on the site has been issued, whichever date is earlier;

- (2) The credit shall be calculated:
 - (a) for any portion of a building or structure used for residential uses, based on the number of dwelling units demolished and/or converted, multiplied by the applicable residential development charge in place at the time the development charge is payable; and/or
 - (b) for any portion of a building or structure used for non-residential uses, based on the total floor area of the building demolished and/or converted, multiplied by the current non-residential charge in place at the time the development charge is payable.
- (3) The credit, can in no case, exceed the amount of the development charge that would otherwise be payable.

TIMING OF CALCULATION AND PAYMENT

9. (1) Subject to subsection 9(3) of this By-law, 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 under the Act, on the date that the first building permit is issued in relation to a building or structure on land to which a development charge applies;
- (2) Subject to subsection 9(3) of this By-law, if development or redevelopment does not require a building permit but does require one or more of the actions described in subsection 4(1) above, development charges shall be paid prior to the granting of approval for any action required under subsection 4(1) of this By-law;
- (3) Where development or redevelopment requires approval of a plan of subdivision under section 51 of the Planning Act or a consent under section 53 of the Planning Act, the development charges for services set out in paragraphs 1, 2, 3, 4 or 5 of subsection 5 (5) of the Act shall be paid immediately upon the parties entering into the subdivision agreement or consent agreement, as the case may be; and
- (4) Council may enter into an agreement with an owner to make any development charges payable earlier or later than the date provided for in subsection 9(1).

RESERVE FUNDS

10. (1) Monies received from payment of development charges shall be maintained in separate reserve funds for each service to which the development charge relates.
- (2) Monies received for the payment of development charges shall be used only in accordance with the provisions of Section 35 of the Act.

- (3) Council directs the Municipal Treasurer to divide the reserve fund created hereunder into separate subaccounts in accordance with the service sub-categories set out in Schedule "A" to which the development charge payments shall be credited in accordance with the amounts shown, plus interest earned thereon.
- (4) Where any development charge, or part thereof, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.
- (5) Where any unpaid development charges are collected as taxes under subsection (4), the monies so collected shall be credited to the development charge reserve fund referred to in subsection (1).
- (6) The Treasurer of the Municipality shall, in each year commencing in 2018 for the 2017 year, furnish to Council a statement in respect of the reserve fund established hereunder for the prior year, containing the information set out in Section 12 of O.Reg. 82/98.

BY-LAW AMENDMENT OR APPEAL

11. (1) Where this By-law or any development charge prescribed thereunder is amended or repealed either by order of the Ontario Municipal Board or by resolution of the Municipal Council, the Municipal Treasurer shall calculate forthwith the amount of any overpayment to be refunded as a result of said amendment or repeal.
- (2) Refunds that are required to be paid under subsection (1) shall be paid with interest to be calculated as follows:
 - (a) Interest shall be calculated from the date on which the overpayment was collected to the date on which the refund is paid;
 - (b) The Bank of Canada interest rate in effect on the date of enactment of this By-law shall be used.
- (3) Refunds that are required to be paid under subsection (1) shall include the interest owed under this section.

BY-LAW INDEXING

12. The development charges set out in Schedule "B" to this By-law shall be adjusted, without amendment to this By-law, commencing on January 1, 2019 and annually thereafter in each January while this By-Law is in force in accordance with the most recent twelve month change in the Statistics Canada Quarterly Construction Price Statistics.

BY-LAW REGISTRATION

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

BY-LAW ADMINISTRATION

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

SEVERABILITY

15. In the event any provision, or part thereof, of this By-law is found, by a court of competent jurisdiction, to be ultra vires, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all other provisions of the By-law shall remain in full force and effect.

HEADINGS FOR REFERENCE ONLY

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

SCHEDULES TO THE BY-LAW

17. The following Schedules to this By-law form an integral part of this By-law:

- Schedule A -Schedule of Municipal Services
- Schedule B -Schedule of Development Charges - Township Services, Effective date of by-law passage
- Schedule C -Schedule of Lands on which Angus sewer and water charges are imposed
- Schedule D -Schedule of Lands on which Thornton water charges are imposed
- Schedule E -Schedule of Lands on which Baxter sewer charges are imposed

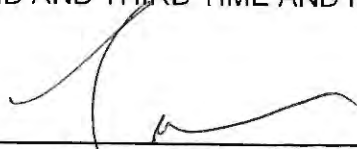
DATE BY-LAW EFFECTIVE

18. This By-law shall come into force and effect on date of passage.

SHORT TITLE

19. This By-law may be cited as the "Township of Essa Uniform Development Charge By-law, 2018."
20. By-law No. 2013-60 and any amendments made thereto are hereby repealed as of the date this by-law comes into force and effect.

54READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY
PASSED on this the 20th day of June 2018.



Terry Dowdall, Mayor



Lisa Lehr, Clerk

SCHEDULE "A"
TO BY-LAW NO. 2018 - 54
DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW

1. General Government
2. Library Services
3. Fire Services
4. Parks and Recreation
5. Public Works and Fleet
6. Police
7. Roads and Related
8. Angus Sewer Services
9. Angus Water Services
10. Thornton Water Services
11. Baxter Sewer Services

SCHEDULE "B"
TO BY-LAW NO. 2018 – 54
SCHEDULE OF DEVELOPMENT CHARGES

Service	Residential Charge By Unit Type (\$/unit)				Non-Residential Charge per Square Metre
	Singles & Semis	Rows & Other Multiples	Apartments 2+ Bedrooms	Apartments Bachelor or 1 Bedroom	
Library Services	\$372	\$333	\$226	\$166	\$0.00
Fire Services	\$2,209	\$1,976	\$1,341	\$988	\$12.67
Police Services	\$22	\$19	\$13	\$10	\$0.13
Parks And Recreation	\$2,201	\$1,969	\$1,336	\$984	\$0.00
Public Works And Fleet	\$634	\$567	\$385	\$284	\$3.64
General Government	\$16	\$14	\$10	\$7	\$0.10
Subtotal General Services	\$5,454	\$4,878	\$3,311	\$2,439	\$16.54
Roads And Related	\$8,471	\$7,578	\$5,142	\$3,789	\$48.56
Total Township-wide Charge	\$13,925	\$12,456	\$8,453	\$6,228	\$65.10

Angus (1)					
Township-wide Charge	\$13,925	\$12,456	\$8,453	\$6,228	\$65.10
Angus Sewer	\$1,361	\$1,218	\$826	\$609	\$7.83
Angus Water	\$2,154	\$1,927	\$1,308	\$964	\$12.13
TOTAL CHARGE IN ANGUS	\$17,440	\$15,601	\$10,587	\$7,801	\$85.06

(1) Applicable in the area shown on Schedule "C".

Thornton (2)					
Township-wide Charge	\$13,925	\$12,456	\$8,453	\$6,228	\$65.10
Thomton Water	\$8,794	\$7,867	\$5,338	\$3,933	\$126.14
TOTAL CHARGE IN THORNTON	\$22,719	\$20,323	\$13,791	\$10,161	\$ 191.24

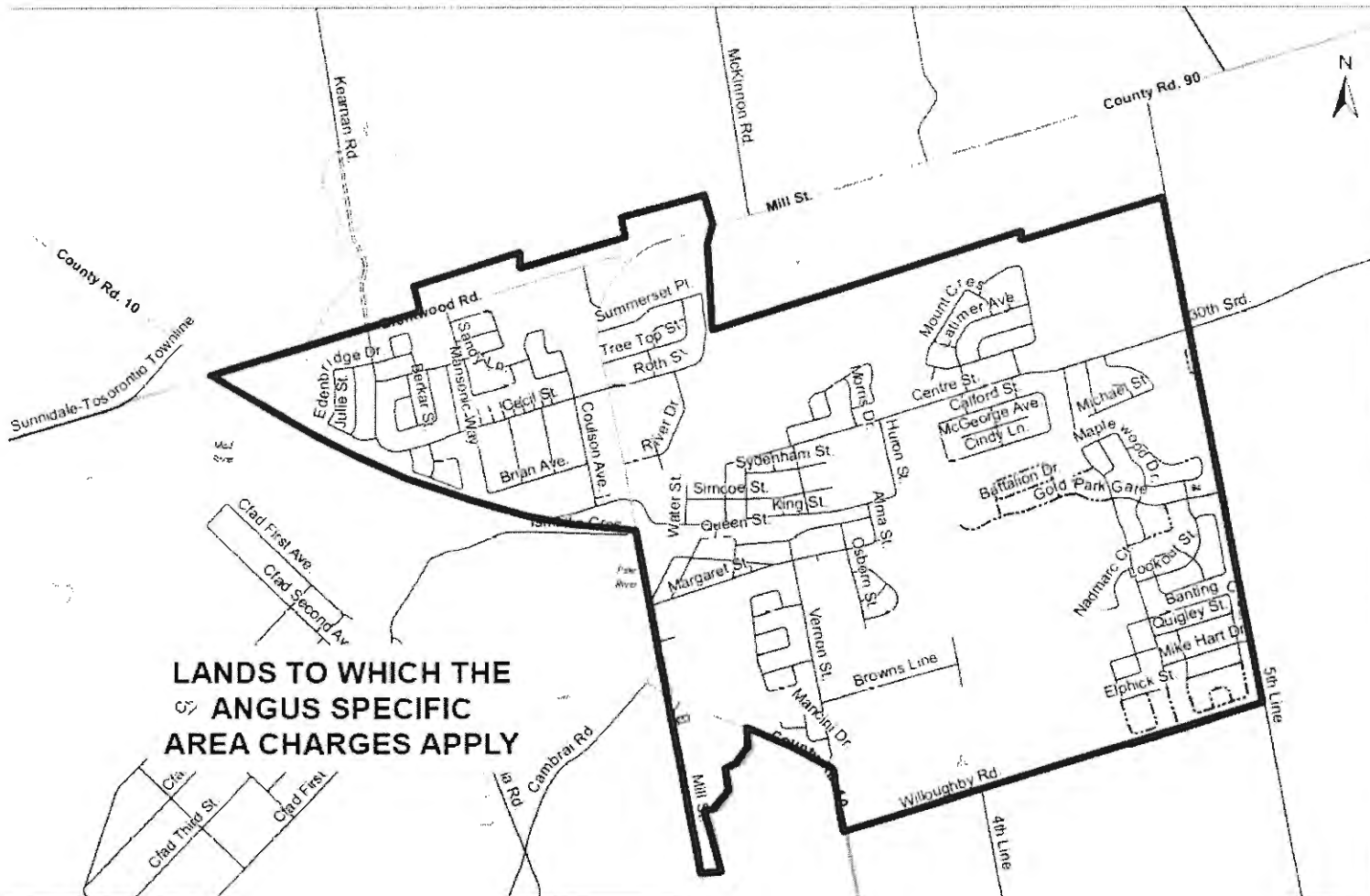
(2) Applicable in the area shown on Schedule "D".

Baxter (3)					
Township-wide Charge	\$13,925	\$12,456	\$8,453	\$6,228	\$65.10
Angus Sewer/WWTP for Baxter	\$1,361	\$1,218	\$826	\$609	\$7.83
TOTAL CHARGE IN BAXTER	\$15,286	\$13,674	\$9,279	\$6,837	\$72.93

WWTP: Denotes Waste Water Treatment Plant

(3) Applicable in the area shown on Schedule "E".

SCHEDULE "C"
TO BY-LAW NO. 2018 - 54
LANDS TO WHICH THE ANGUS SPECIFIC AREA CHARGES APPLY



SCHEDULE "D"
TO BY-LAW NO. 2018 - 54
LANDS TO WHICH THE THORNTON SPECIFIC AREA CHARGES APPLY



SCHEDULE "E"

**TO BY-LAW NO. 2018 - 54
LANDS TO WHICH THE BAXTER SPECIFIC AREA CHARGES APPLY**

