

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS

BY-LAW NO. 10-31

A BY-LAW RESPECTING DEVELOPMENT CHARGES FOR THE TOWNSHIP OF LAKE OF BAYS.

WHEREAS the Township of Lake of Bays will experience growth through development and redevelopment;

AND WHEREAS development requires the provision of physical and social services by the Township of Lake of Bays;

AND WHEREAS Council desires to ensure that the capital cost of meeting growth-related demands for or burden on municipal services does not place an excessive financial burden on the Township of Lake of Bays 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 the *Development Charges Act, S.O. 1997, c.27*, permits Council to pass by-laws for the imposition of development charges if development of land within the Township of Lake of Bays is for uses which would increase the need for municipal services and any one or more of the actions set out in subsection 3(1) of the *Development Charges Act, S.O. 1997*, are required for such development;

AND WHEREAS Council had before it a report entitled the "Development Charges Background Study" submitted by Hemson Consulting Ltd. dated March 2010 (the "Study");

AND WHEREAS Council by passing this by-law adopts the capital program contained in the Study subject to annual budget review;

AND WHEREAS Council has considered the comments of the public at a public meeting duly called on March 23, 2010 to consider the enactment of a By-law under the *Development Charges Act, S.O. 1997*;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS ENACTS AS FOLLOWS:

1. In this By-law:

- 1.1. **Act** means the *Development Charges Act, S.O. 1997, c.27*;
- 1.2. **Agricultural Use** means a use of land, buildings or structures for the purpose of growing crops, fruit farming, market gardening, dairying, animal husbandry, poultry or beekeeping and such uses, structures and buildings as are customarily related to a farming operations, but does not include a Dwelling Unit;
- 1.3. **Apartment Unit** means a Dwelling Unit in a Residential Building containing four or more Dwelling Units, where the Dwelling Units are connected by an internal corridor;
- 1.4. **Bedroom (BR)** includes any room which can be used as sleeping quarters but does not include a kitchen, bathroom, living room or dining room;
- 1.5. **Board of Education** is a board defined in subsection 1 (1) of the *Education Act R.S.O. 1990, c.E2*
- 1.6. **Capital Cost** means costs incurred or proposed to be incurred by a municipality or a local board or commission thereof directly or under an agreement:
 - 1.6.1. to acquire land or an interest in land,
 - 1.6.2. to improve lands and infrastructure,
 - 1.6.3. to acquire, construct or improve buildings and structures,
 - 1.6.4. to acquire, construct or improve facilities including,
 - 1.6.4.1. rolling stock, furniture and equipment, and
 - 1.6.4.2. materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act, 1998, R.S.O. 1990, c.P.44* and
 - 1.6.5. to undertake studies in connection with any of the matters in sections 1.6.1 through 1.6.4, required for the provision of services designated,

- 1.7. **Commercial Use** means the use of land, structures or buildings for the purposes of buying or selling commodities and services, but does not include Industrial Use or Agricultural Use, but does include hotels, motels, motor inns and boarding, lodging and rooming houses;
- 1.8. **Council** means the Council of The Corporation of the Township of Lake of Bays;
- 1.9. **Development** includes redevelopment;
- 1.10. **Development Charge** means a charge imposed with respect to Growth-Related Net Capital Costs against land pursuant to the provisions of the within By-law;
- 1.11. **Dwelling Unit** means one or more habitable rooms designed or intended for use as an independent and separate unit in which separate kitchen and sanitary facilities are provided for the exclusive use of the household with a private entrance from outside the building or from a common hallway or stairway inside the building. This does not include the Dwelling Unit commonly referred to as garden suite;
- 1.12. **Existing** means the number, use and size that existed as of the date this by-law was passed;
- 1.13. **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 Township of Lake of Bays;
- 1.14. **Industrial Use** means the use of land, buildings or structures designed for the purpose of manufacturing, assembling, making, preparing, inspecting, ornamenting, finishing, treating, altering, repairing, warehousing or storing or adapting for sale of any goods, substance, article or thing, or any part thereof, and the storage of building and construction equipment and materials, as distinguished from the buying and selling of commodities and the supplying of personal services. This definition does not include Agriculture Use;
- 1.15. **Institutional Use** means the use of land, buildings, structures or part thereof used by any organization, group or association for promotion of charitable, educational or benevolent objectives and not for profit or gain;
- 1.16. **Local Board** means a school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other 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 Township of Lake of Bays or any part or parts thereof;
- 1.17. **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 50 and 52 of the *Planning Act, R.S.O. 1990 c.P.13*;
- 1.18. **Multiple** means a Residential Building of not more than two storeys containing three or more Dwelling Units, or any Residential Building containing between three and six Dwelling Units;
- 1.19. **MPAC** means the Municipal Property Assessment Corporation;
- 1.20. **Net Capital Cost** means the Capital Cost less capital grants, subsidies and other contributions made to the Township or that the Council of the municipality anticipates will be made, including conveyances or payments under sections 41, 50 and 52 of the *Planning Act, R.S.O. 1990 c.P.13*, in respect of the Capital Cost;
- 1.21. **Non-Residential Use** includes Commercial, Industrial and Institutional uses;
- 1.22. **Owner** means the owner of land or a person who has made application for an approval for the development of land for which a Development Charge is imposed;
- 1.23. **Regulation** means Ontario Regulation (O. Reg.) 82/98;
- 1.24. **Residential Building** means a building, occupied or capable of being occupied, as a home, residence or sleeping place by one or more persons, containing one or more Dwelling Units but not including motels, hotels, tents, truck campers, tourist trailers, mobile camper trailers or boarding, lodging or rooming houses, but shall include Units in a resort setting;

- 1.25. **Residential Use** means the use of a building or structure or portion thereof for one or more Dwelling Units;
 - 1.26. **Services** means those services, facilities, accommodations and things shown on Schedule "A" to this by-law;
 - 1.27. **Servicing Agreement** means an agreement to provide municipal services by the Township of Lake of Bays to specified lands within the municipality;
 - 1.28. **Services in Lieu** means those Services specified in a Servicing Agreement made under section 14 of this by-law;
 - 1.29. **Single or Semi Detached Dwelling Unit** means a Dwelling Unit in a detached dwelling unit, a semi-detached dwelling unit, or a duplex.
 - 1.30. **Township** means The Corporation of the Township of Lake of Bays;
 - 1.31. **Unit** includes a Dwelling Unit and Apartment Unit;
2. Council hereby determines that the development of land, buildings or structures for Residential and Non-residential uses will require the provision, enlargement, or expansion of the Services on Schedule "A" hereto. By-law 05-30 is hereby repealed on the effective date of this By-law.
 3. Council hereby imposes the Development Charges shown on Schedules "B1" and "B2" to defray the Growth-Related Net Capital Cost of providing, enlarging, or expanding the Services shown on Schedule "A".
 4. Applicable Lands:
 - 4.1. This By-law applies to all lands in the Township of Lake of Bays whether or not the land or use thereof is exempt from taxation under the *Assessment Act, R.S.O. 1990 c.A.31*;
 - 4.2. Notwithstanding section 4.1 above, the following uses are exempt from development charges:
 - 4.2.1. A Board of Education;
 - 4.2.2. The Township or any local board or commission thereof;
 - 4.2.3. The District Municipality of Muskoka or any local board thereof;
 - 4.2.4. Agricultural uses;
 - 4.2.5. Buildings or structures owned by a hospital approved as a public hospital under the *Public Hospitals Act, R.S.O. 1990. c. P.40* when used for public hospital services; and
 - 4.2.6. The development of a cemetery and burial ground exempt from taxation under section 3 of the *Assessment Act, R.S.O. 1990 c.A.31*;
 5. Exemption Relating to the Creation of Additional Dwelling Units:
 - 5.1. No Development Charge shall be imposed when an existing Dwelling Unit is enlarged, or one or two additional Dwelling Units are being added to an existing single detached dwelling unless the total gross floor area of the additional one or two dwellings exceeds the gross floor area of the existing dwelling.
 - 5.2. For all Residential Uses other than a single detached dwelling, no Development Charge shall be imposed when one additional Dwelling Unit is being added to an existing Residential Building unless the gross floor area of the additional unit exceeds the gross floor area of the smallest Dwelling Unit contained in the Residential Building.
 6. Exemption Relating to Industrial Development:
 - 6.1. If the gross floor area of an existing industrial building on a lot is enlarged by 50 per cent or less, the amount of the development charge in respect of the enlargement is zero;
 - 6.2. If the gross floor area of an existing industrial building is enlarged by more than 50 per cent, the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:

- 6.2.1. determine the amount by which the enlargement exceeds 50 per cent of the total gross floor area before the enlargement;
- 6.2.2. divide the amount determined under paragraph 6.2.1 by the amount of the enlargement.

7. Development Charge Credits for Demolition

- 7.1. If a development or redevelopment involves the demolition of and replacement of a building or structure, or the conversion from one principal use to another credit shall be allowed against the development charges otherwise payable, provided that where a demolition permit or other planning approval related to the demolition of a building or structure on the site has been issued and not revoked.
- 7.2. A building permit must be issued for the development or redevelopment within three years from the date of the demolition permit or other planning approval related to the demolition of the building or structure.
- 7.3. The credit shall be calculated:
 - 7.3.1. 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
 - 7.3.2. 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 retail and/or other non-residential development charge in place at the time the development charge is payable.
- 7.4. The credit can, in no case, exceed the amount of the development charge that would otherwise be payable.
- 7.5. This section does not apply and no credit shall be given where the demolished building or structure, or part thereof, would have been exempt from this By-law.

8. Affordable Housing Policies

- 8.1. The purpose of this section herein is to encourage the development of affordable housing in Lake of Bays. In administering the provisions of these sections, regard shall be had for the said purpose.
- 8.2. Applications for deferral and potential forgiveness shall be evaluated in sequence in order of receipt.
- 8.3. An application under section 8 of this by-law shall be deemed to have been received by the Township on the date that the application is complete.
- 8.4. Applications for potential forgiveness under this section may only be granted if:
 - 8.4.1. the criteria in this section have been met; and
 - 8.4.2. Township Council has, in the year the application is received, budgeted sufficient funds to accommodate the potential forgiveness of the amounts otherwise due under this by-law.
- 8.5. For the purposes of section 8 herein and Schedules "C1" and "C2":
 - 8.5.1. "Affordable housing" means development meeting the criteria set forth in Schedule "C1" hereto; and
 - 8.5.2. Where a dollar amount is specified, the reference means the current value assessment as determined by MPAC from time to time.
- 8.6. It is acknowledged that the for the purpose of this section the determination as to whether or not a person has built affordable housing cannot be made until the housing has:
 - 8.6.1. Either received an occupancy permit or is in fact occupied by an owner or tenant; and
 - 8.6.2. Has been assessed by MPAC.

- 8.7. Where a person is proposing to develop affordable housing, the person may, prior to applying for a building permit, make a request to Township for a deferral of payment of the development charges applicable to the proposed affordable housing until such time as the development is completed. Any such request shall include sufficient detail so that a determination as to whether or not the proposed development qualifies as affordable housing as defined in this section. In the event that a request does not contain the required information, the request shall be rejected.
- 8.8. Subject to section 8.2 where it is determined by the Township Treasurer that the proposed development meets the criteria in Schedule "C1", upon signature of a Development Charges Deferral Agreement in a form acceptable to the Township Treasurer, the development charges payable shall be as follows:
- 8.8.1. the amount payable at building permit time shall be determined in accordance with Schedule "B1" less the amount permitted to be deferred in accordance with Schedule "C2"; and
- 8.8.2. the amount payable, if any, at the end of the deferral period shall be determined in accordance with sections 8.10 and 8.11 herein.
- 8.9. The deferral period shall terminate at the earlier of:
- 8.9.1. At the time MPAC assesses the housing unit; or
- 8.9.2. Eighteen (18) months from the date the deferral agreement is entered into.
- 8.10. In the event that the deferral period terminates on the basis of section 8.8.2 or the affordable housing unit does not, at the end of the deferral period, meet the criteria in Schedule "C1" the amount payable shall be equal to the amount payable for that type of development according to Schedule "B1" as of the date of the termination of the deferral period less any amounts paid under this by-law at building permit time.
- 8.11. In the event the deferral period expires by virtue of sections 8.9.1 or 8.9.2 and the development meets the criteria in Schedule "C1", the amount payable shall be determined as follows:
- 8.11.1. the amount payable is according to Schedule "B1" at the time the development charges deferral agreement was entered into multiplied by the applicable percentage according to Schedule "C2" for the housing unit that was in fact constructed after assessment by MPAC minus any amounts paid under this by-law at the time the building permit was issued for the development charges.
- 8.11.2. In the event that there is any dispute as to the amount, if any, that is payable at the expiry of the deferral period, the amount payable shall be determined by the Township Treasurer whose decision shall be final.
- 8.12. In the event that an amount comes due under a Development Charges Deferral Agreement and the amount is not paid, the amount due may, in the determination of the Township Treasurer in accordance with section 32 of the Act, be placed on the tax roll and collected like taxes.
- 8.13. The dollar amounts set forth in Schedules "C1" and "C2" may be indexed as follows:
- 8.13.1. indexing, if any, may be done in any year that MPAC has completed a general reassessment at the same time as indexing of amounts in Schedules "B1" and "B2" is done under section 13 of this by-law; and
- 8.13.2. indexing may be done in accordance with average increase in value for the previous year or years in the assessment of the types of housing described in Schedule "C1";
- 8.14. Where a person has constructed a housing unit and has paid development charges in full at the time of the building permit or the person has entered into a Development Charges Deferral Agreement but has built a housing unit eligible for a greater rate of deferral, the person may, upon assessment by MPAC of the housing unit, apply for a rebate. If the housing unit qualifies as affordable housing on the basis of the criteria in Schedule "C1" as it read on the date the building permit was issued, a rebate may be made to the owner of the housing unit at the time the rebate is paid in an amount equal to the amount of the overpayment calculated as follows:

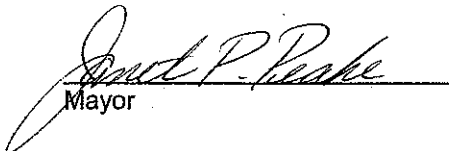
(amount paid at building permit under this by-law) less (amount payable under Schedule "B1" at the time the building permit was issued multiplied by the deferral percentage applicable to the housing unit that was actually built according to Schedule "C1")

9. In the case of a Development containing more than one use or category of use shown on Schedules "B1" and "B2" hereto, each such use shall bear its applicable Development Charge in the proportion that the gross floor area of such use or category of use bears to the total gross floor area of the Development, or that the total acres of such use or category of use bears to the total acres of the Development.
10. Collection of Development Charges:
 - 10.1. The whole of the Development Charge imposed hereunder shall be calculated and paid in full on the date a building permit application under the *Building Code Act, S.O. 1992, c.23*, is submitted in respect of the building or structure for the use to which the Development Charge hereunder applies.
 - 10.2. No building permit shall be issued for any building or structure in respect of which the Development Charge applicable hereunder remains unpaid.
 - 10.3. Notwithstanding sections 10.1 and 10.2, the Council may enter into a written agreement providing for payment of the Development Charges on any date that Council decides is appropriate.
11. Nothing in this by-law prevents Council from requiring, as a condition of approval under section 50, or section 52, of the *Planning Act, R.S.O. 1990 c.P.13*, that the Owner, at his own expense, install such local services as Council may require or that the Owner install local connections to municipal services at the Owner's expense.
12. Council may enter into front-ending or credit agreements in accordance with the provisions of the Act and Regulations.
13. The Development Charges established hereunder may be indexed without amendment to this By-law annually, on the 31st day of December in each year commencing on December 31, 2010, in accordance with the Statistics Canada Quarterly, Construction Price Statistics (Catalogue 62-007) as prescribed by the Regulation.
14. Services in Lieu Agreements:
 - 14.1. 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.
 - 14.2. In any agreement made under section 14.1 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.
 - 14.3. Any dispute as to the reasonable cost of providing the Services in Lieu or the Services mentioned in section 9(i) above shall be referred to the Township's Public Works Director whose decision shall be final and binding.
15. A copy of this By-law may be registered against such lands in the Township of Lake of Bays as Council, by resolution, from time to time, may direct.
16. Any amount of Development Charge, which remains unpaid after the date specified in section 10 shall be added to the tax roll and collected as unpaid taxes.
17. Where any unpaid Development Charges are collected as taxes under section 16 above, the money so collected shall be credited to the said reserve funds in the proportions of each service identified in Schedule "A";
18. The Treasurer of the Township of Lake of Bays shall administer this By-law.
19. Any agreement made under Sections 51 or 53 of the *Planning Act, R.S.O. 1990 c.P.13* before the date this By-law comes into force which provides for the payment of a lot levy, capital contribution or other charge shall remain in full force and effect and be enforceable according to its terms.
 - 19.1. The Treasurer, in calculating the Development Charge payable under section 3 above, shall deduct from the Development Charge otherwise payable any amount paid pursuant

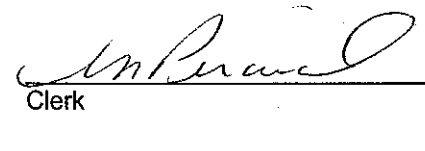
to an agreement mentioned in section 19 above, where there is no conflict or the amount specified in the agreement if there is a conflict.

- 19.2. Where an impost fee, lot creation fee or development charge was collected or is to be collected as a condition for a lot created by consent pursuant to Section 53 of the *Planning Act, R.S.O. 1990 c.P.13* then no development charge shall be imposed.
20. Council directs the Treasurer to create individual reserve funds, separate from the other reserve funds of the municipality, and record each of the services listed in Schedule "A" to this By-law. The Treasurer shall deposit the Development Charges received under this By-law into the appropriate reserve fund thus created and shall pay from the appropriate reserve fund any amounts necessary to defray the Net Capital Cost of the Service.
21. This By-law shall continue in force and effect for a term of five (5) years from the date of its passage.
22. The Treasurer of the Township of Lake of Bays shall, in each year on or before March 31, furnish to Council a statement in respect of the reserve funds for the prior year established hereunder containing the information required under the Regulations.
23. 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.
 - 23.1. Any overpayment determined under section 23 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.
 - 23.2. The refund payable under section 23 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.
24. Development Charges described in Schedules "B1" and "B2" are effective on March 29, 2010.

READ a FIRST and SECOND time this 23rd day of March, 2010

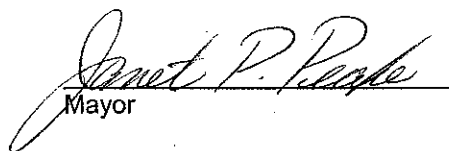


Mayor

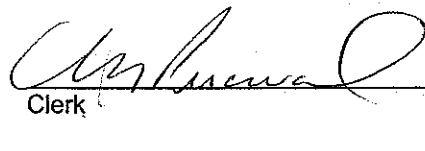


Clerk

READ a THIRD time and finally passed this 23rd day of March, 2010.



Mayor



Clerk

SCHEDULE "A"

Services recovered for under this By-law:

Service	Residential Share of Total Charge	Non-Residential Share of Total Charge
Fire Services	8.9%	18.4%
Library Services	10.7%	0.0%
Parks & Recreation	41.2%	0.0%
Public Works: Buildings & Fleet	13.9%	28.8%
General Government	3.7%	7.8%
Roads & Related	21.6%	45.0%
Total	100.0%	100.0%

SCHEDULE "B1"

Residential Development Charges

SERVICE	Charge By Unit Type			
	Single and Semi-Detached	Rows and Other Multiples	Apartments 2BR or more	Apartments 1BR or less
Fire Services	\$469	\$447	\$366	\$284
Library Services	\$564	\$538	\$440	\$342
Parks & Recreation	\$2,178	\$2,077	\$1,699	\$1,322
Public Works: Buildings & Fleet	\$734	\$700	\$573	\$446
General Government	\$197	\$188	\$154	\$120
General Services Charge Per Unit	\$4,142	\$3,950	\$3,232	\$2,514
Roads & Related	\$1,147	\$1,094	\$895	\$696
TOTAL DEVELOPMENT CHARGE PER UNIT	\$5,289	\$5,044	\$4,127	\$3,210

SCHEDULE "B2"

Non-Residential Development Charges

(\$/sq. m.)

SERVICE	2010	2011	2012	2013	2014
Fire Services	\$2.04	\$2.25	\$2.48	\$2.73	\$3.01
Library Services	0	0	0	0	0
Parks & Recreation	0	0	0	0	0
Public Works: Buildings & Fleet	3.19	3.51	3.87	4.26	4.69
General Government	.86	.95	1.05	1.16	1.28
General Services Charge Per sq. m	\$6.09	\$6.71	\$7.40	\$8.15	\$8.98
Roads & Related	4.96	5.46	6.01	6.62	7.29
TOTAL DEVELOPMENT CHARGE PER SQ M	\$11.05	\$12.17	\$13.41	\$14.77	\$16.27

SCHEDULE "C1"

Eligibility Limits for Affordable Housing

ELIGIBILITY LIMITS FOR AFFORDABLE HOUSING	
Development Form	Eligibility Criteria
Single and Semi Detached	i. Building together with lot would not have an assessed value greater than \$220,000. ii. The premises are for permanent residential occupancy.
Rows and Other Multiples	i. Building together with lot would not have an assessed value of greater than \$200,000 per unit. ii. The premises are for permanent residential occupancy.
Apartments 2BR or More	i. Building together with lot would not have an assessed value of greater than \$170,000 per unit. ii. The premises are for permanent residential occupancy.
Apartments 1BR or Less	i. Building together with lot would not have an assessed value of greater than \$160,000 per unit. ii. The premises are for permanent residential occupancy.

SCHEDULE "C2"

Percentages of Development Charges Permitted to be Deferred for Affordable Housing Units

PERCENTAGES OF DEVELOPMENT CHARGES PERMITTED TO BE DEFERRED FOR AFFORDABLE HOUSING UNITS		
Form	Value	Percentage of amount otherwise payable permitted to be deferred
Single and Semi Detached	\$170,000 or less	100%
	\$170,000 to \$220,000	50%
	over \$220,000	0 - no deferral permitted
Rows and Other Multiples	\$170,000 or less	100%
	\$170,000 to \$200,000	50%
	over \$200,000	0 - no deferral permitted
Apartments 2BR or More	\$160,000 or less	100%
	\$160,000 to \$170,000	50%
	over \$170,000	0 - no deferral permitted
Apartments 1BR or Less	\$160,000 or less	100%
	over \$160,000	0 - no deferral permitted