

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 04-156

**BEING A BY-LAW TO ESTABLISH DEVELOPMENT
CHARGES FOR THE CITY OF PETERBOROUGH**

WHEREAS the City of Peterborough has and will continue to experience growth through development;

AND WHEREAS development requires the provision of physical infrastructure and other services by the City;

AND WHEREAS subsection 2(1) of the *Development Charges Act*, 1997, S.O. 1997 c.27 (the "Act") provides that the council of a municipality may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services arising from the development of the area to which the by-law applies;

AND WHEREAS Council has before it a report entitled "Interim Development Charges Background Study", prepared by Hemson Consulting Limited, for the City of Peterborough, dated July, 2004, (the "Study");

AND WHEREAS the Study was made available to the public prior to a public meeting held on August 3, 2004, in accordance with Section 12 of the Act, at which time Council heard comments and representations from all persons who applied to be heard (the "Public Meeting");

AND WHEREAS Council has adopted the Study, including the development related capital program referred to therein, and thereby has indicated that it intends to ensure that the increase in the need for services attributable to anticipated development will be met, and has further indicated its intent that the future excess capacity identified in the Study shall be paid for by development charges or other similar charges;

AND WHEREAS Council determined that no further public meetings were required under Section 12 of the Act;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PETERBOROUGH ENACTS AS FOLLOWS:

Definitions

1. In this By-law,

“Act” means the *Development Charges Act*, 1997, S.O. 1997, c.27;

“Board of education has the same meaning as specified in the *Education Act*, or any successor legislation;

“building floor area” shall have the same meaning as that which is contained in the Zoning By-law of the City, and shall include a mezzanine;

“City” means the Corporation of the City of Peterborough;

“commercial use” means lands, buildings or structures or portions thereof used or designed

or intended to be used for a purpose which is classified as a Group D, Group E, Group A (restaurant and licenced beverage establishment only), or Group C (hotel and motel only) occupancy, pursuant to the *Ontario Building Code*;

“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 building floor area thereof, and includes redevelopment;

“development charge” means a charge imposed pursuant to this By-law;

“dwelling unit” means one or more rooms used, designed or intended to be used together as a single and separate house-keeping unit by one person or persons living together, in which both culinary and sanitary facilities are provided for the exclusive use of such person or persons;

“existing industrial building” shall have the same meaning as that which is contained in O.Reg. 82/98 made under the Act;

“farm building” means a farm building as defined in the *Ontario Building Code*;

“grade” means the average level of finished ground adjoining a building at its exterior walls;

“gross floor area” has the same meaning as that which is contained in O.Reg. 82/98 made under the Act;

“industrial use” means lands, buildings or structures or portions thereof used or designed or intended to be used for a purpose which is classified as a Group F occupancy, pursuant to the *Ontario Building Code*;

“local board” means a public utility commission, transportation commission, public library board, board of park management, local board of health, police services board, 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 of the City;

“mezzanine” means a mezzanine as defined in the *Ontario Building Code*;

“multi-suite residence” means a multi-suite residence as defined in the Zoning By-law of the City;

“non-residential use” means land, buildings or structures or portions thereof used, or designed or intended to be used for a use other than for a residential use, and includes an industrial use and a commercial use;

“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;

“place of worship” means that part of a building or structure that is exempt from taxation as a place of worship under the *Assessment Act*, as amended, or any successor legislation;

“Residential A building” means a building containing one or two dwelling units;

“Residential B building” means a building containing more than two dwelling units, other than a Residential C building;

“Residential C building” means a building containing more than two dwelling units, each of which has access to the common corridor and entrance(s); and a multi-suite residence;

“residential use” means land, buildings or structures or portions thereof used, designed or intended to be used as living accommodation for one or more individuals;

“semi-detached dwellings or row dwellings” mean residential buildings, each of which contain a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings;

“services” means services designated in this By-law including Schedule A to this By-law or in an agreement under section 44 of the Act, or both;

“single detached dwellings” means residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings; containing only one dwelling unit;

“temporary building or structure” means a building or structure constructed or erected or placed on land for a continuous period not exceeding eight months, or an addition or alteration to a building or structure that has the effect of increasing the total floor area thereof for a continuous period not exceeding eight months;

Rules

2. For the purpose of complying with section 6 of the Act:
 - (a) the area to which this By-law applies shall be the area described in section 3 of this By-law;
 - (b) the rules developed under paragraph 9 of subsection 5(1) of the Act for determining if a development charge is payable in any particular case and for determining the amount of the charge shall be as set forth in sections 4 through 18, inclusive, of this By-law;
 - (c) the exemptions provided for by such rules shall be the exemptions set forth in sections 19 through 21, inclusive of this By-law, the indexing of charges shall be in accordance with section 16 if this By-law and the phasing in of charges shall be in accordance with subsection 17 of this By-law; and
 - (d) the redevelopment of land shall be in accordance with the rules set forth in section 23 of this By-law.

Lands Affected

- (a) This By-law applies to all lands in the geographic area of the City.
 - (4) This By-law shall not apply to lands which are owned by or used for the purposes of:
 - the City or a local board thereof;
 - a board of education.

Designation of Services

4. It is hereby declared by Council that all development of land within the City will increase the need for services.
5. The development charge applicable to a development as determined under this By-law shall apply without regard to the services required or used by an individual development.

6. Development charges shall be imposed for the following categories of services to pay for the increased capital costs required because of increased needs for services arising from development:
- (a) General Government;
 - (b) Transit;
 - (c) Library Service;
 - (d) Fire Service;
 - (e) Police Service;
 - (f) Indoor Recreation;
 - (g) Park Development and Facilities;
 - (h) Public Works;
 - (i) Parking;
 - (j) City-wide Engineering.

Approvals for Development

7. Development charges shall be imposed against all lands, buildings or structures within the area to which this By-law applies if the development of such lands, buildings or structures requires any of the following approvals:
- (a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act*;
 - (b) the approval of a minor variance under section 45 of the *Planning Act*;
 - (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
 - (e) a consent under section 53 of the *Planning Act*;
 - (f) the approval of a description under section 50 of the *Condominium Act*; or
 - (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure, except where the development entails the conversion or renovation, but not expansion, of an existing building for a change of use which does not require any of the approvals provided in subsections (a) to (f) inclusive above.
8. No more than one development charge for each service designated in section 6 shall be imposed upon any lands, buildings or structures to which this By-law applies even though two or more of the actions described in section 7 are required before the lands, buildings or structure can be developed.
9. Notwithstanding section 8, if two or more of the actions described in section 7 occur at different times, additional development charges shall be imposed in respect of any increased or additional development permitted by such actions.

10. Where a development requires an approval described in section 7 after the issuance of a building permit and no development charge has been paid, then the development charge shall be paid prior to the granting of the approval required under section 7.
11. If a development does not require a building permit but does require one or more of the approvals described in section 7, then the development charge shall nonetheless be payable in respect of any increased or additional development permitted by such approval.
12. Nothing in this By-law prevents Council from requiring, as a condition of an agreement under sections 51 or 53 of the *Planning Act*, that the owner, at his or her own expense, install such local services related to a plan of subdivision or within the area to which the plan relates, as Council may require, or that the owner pay for local connections to storm drainage facilities installed at the owner's expense, or administrative, processing, or inspection fees.

Calculation of Development Charges

13. The development charge with respect to the use of any land, buildings or structures shall be calculated as follows:
 - (a) in the case of residential development, or the residential portion of a mixed-use development, based upon the number and type of dwelling units; or
 - (b) in the case of non-residential development, or the non-residential portion of a mixed-use development, based upon the building floor area of such development.

Amount of Charge B Residential

14. The development charges described in Schedule B to this By-law shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential component of the mixed use building or structure, according to the type of residential use. For the purposes of calculation of the charge for a multi-suite residence, two suites shall be deemed to comprise one dwelling unit.

Amount of Charge B Non-Residential

15. The development charges described in Schedule C to this By-law shall be imposed on non-residential uses of lands, buildings or structures and, in the case of a mixed-use building or structure, on the non-residential components of the mixed-use building or structure, and calculated with respect to each of the services according to the building floor area of the non-residential use.

Indexing of Development Charges

16. The development charges set out in Schedules B and C hereto shall be adjusted by the City Treasurer without amendment to this By-law annually on September 1st in each year, commencing September 1, 2000, in accordance with the most recent annual change in the Statistics Canada Quarterly, Construction Price Statistics (catalogue number 62-007).

Phasing, Timing of Calculation and Payment

17. (a) Except as provided in subsection (b) hereof, the development charges set out in this By-law are payable, in full, subject to the exemptions and credits provided herein, from the effective date of this By-law.

- (b) Development charges in respect of the following uses of lands, buildings or structures shall not be payable during the term of this By-law:
 - (1) Industrial Uses;
 - (2) The first 465 square metres of building floor area of a commercial use, including either a new building, or the enlargement of an existing building. For greater certainty, in the case of the enlargement of an existing building, the building floor area of the existing building shall be determined as of September 1, 1999.
- (c) Subject to section 23 (with respect to redevelopment) and subsection (d), the development charge shall be calculated as of, and shall be payable, on the date the first building permit is issued in relation to a building or structure on land to which the development charge applies.
- (d) Notwithstanding subsection (c), the City may enter into an agreement with an owner, including the provision of security for the owner's obligations under agreement, pursuant to section 27 of the Act, providing for all or part of a development charge to be paid before or after it otherwise would be payable. The terms of such agreement shall then prevail over the provisions of this By-law.
- (e) Where a development charge or any part of it remains unpaid after it is payable, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as taxes.

Payment by Services

- 18. The City, may in an agreement pursuant to Section 38 of the Act, permit an owner to provide services in lieu of the payment of all or any portion of a development charge. The City shall give the owner who performed the work a credit towards the development charge in accordance with the agreement, subject to the requirements of the Act.

Rules with Respect to Exemptions for Intensification of Existing Housing

- 19. (a) This By-law does not apply with respect to approvals related to the residential development of land, buildings or structures that would have the affect only of,
 - (1) permitting the enlargement of an existing dwelling unit;
 - (2) creating one or two additional dwelling units in an existing single detached dwelling, where the total gross floor area of the additional unit or units does not exceed the gross floor area of the existing dwelling unit;
 - (3) creating one additional dwelling unit in an existing semi-detached or row dwelling where total gross floor area of the additional unit does not exceed the gross floor area of the existing dwelling unit; or
 - (4) creating one additional dwelling unit in any other existing residential building, where the total gross floor area of the additional unit does not exceed the gross floor area of the smallest existing dwelling unit.

Rules with Respect to Industrial Expansion Exemption

20. a) If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable is the following:
- (1) if the gross floor area is enlarged by 50 per cent or less, the amount of the development charge in respect of the enlargement is zero; and
 - (2) if the gross floor area is enlarged by more than 50 per cent, development charges are payable on the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement.
- (b) In this section, for greater certainty in applying the exemption herein:
- (1) the gross floor area of an existing industrial building shall be determined as of the date this By-law comes in to force; and
 - (2) the gross floor area of an existing industrial building is enlarged where there is a bona fide increase in the size of the existing building and the enlarged area is attached to existing industrial building and is used for or in connection with an industrial purpose as set out in subsection 1(1) of O. Reg. 82/98. Without limiting the generality of the foregoing, the exemption in this section shall not apply where the enlarged area is attached to the existing industrial building by means only of a tunnel, bridge, canopy, corridor or other passageway, or through a shared below grade connection such as a service tunnel, foundation, footing or a parking facility.

Other Exemptions

21. Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to:
- (a) lands, buildings or structures used as hospitals governed by the *Public Hospitals Act*, R.S.O 1990, c. P. 40;
 - (b) lands, buildings or structures used or to be used for a place of worship or for the purposes of a cemetery or burial ground; and
 - (3) farm buildings.

Temporary Buildings or Structures

22. (a) Temporary buildings or structures shall be exempt from the provisions of this By-law.
- (b) In the event that a temporary building or structure continues to exist for a continuous period exceeding eight (8) months, it shall be deemed not to be nor ever to have been a temporary building or structure, and the development charges required to be paid under this By-law shall be calculated and payable on the date that the building or structure is deemed not to be temporary.
- (c) Prior to the City issuing a building permit for a temporary building or structure, the City may require an owner to enter into an agreement, including the provision of security for the owner=s obligation under the agreement, pursuant to section 27 of the Act, providing for all or part of the development charge required by this section to be paid after it would otherwise be payable. The terms of such agreement shall then prevail over the provisions of this By-law.

Rules with Respect to the Redevelopment of Land

23. a) Where there is a redevelopment of land on which there is a conversion of space proposed, or on which there was formerly erected a building or structure that has been demolished, a credit shall be allowed against the development charge otherwise payable by the owner pursuant to this By-law for the portion of the previous building or structure still in existence that is being converted or for the portion of the building or structure that has been demolished, as the case may be, calculated by multiplying the number and type of dwelling units being converted or demolished, or the non-residential building floor area being converted or demolished, by the development charge shown in Schedule B or C on the date when the development charge is payable in accordance with this By-law.
- (b) A credit in respect of any demolition under this section shall not be given unless a building permit has been issued or a subdivision agreement has been entered into with the City for the development within five (5) years from the date the demolition permit was issued.
- (c) The amount of any credit hereunder shall not exceed, in total, the amount of the development charges otherwise payable with respect to the development.
- (d) The onus is on the applicant to produce evidence to the satisfaction of the City, acting reasonably, which establishes that the applicant is entitled to the reduction in the payment of development charges claimed under this section.

Interest

24. The City shall pay interest on a refund under subsection 18(3), 18(5), or 25(2) of the Act, at the rate of 4.75%, being the Bank of Canada rate on the date this By-law comes into force.

Schedules

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

Schedule A=	Designated Services
Schedule B=	Residential Development Charges
Schedule C=	Non-Residential Development Charges

By-law Registration

26. A certified copy of this By-law may be registered in the by-law register in the Land Registry Office against all land in the City and may be registered against title to any land to which this By-law applies.

Date By-law Effective

27. This By-law comes into force on September 1, 2004.

Date By-law Expires

28. This By-law expires on December 31, 2004.

Headings for Reference Only

29. 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.

Severability

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

By-law read a first and second time this 19th day of August, 2004

By-law read a third time and finally passed this 19th day of August, 2004.

(Sgd.) Sylvia Sutherland, Mayor

(Sgd.) Leigh Doughty, Deputy Clerk

**SCHEDULE A
SERVICES**

1. General Government
2. Transit
3. Library Board
4. Fire Department
5. Police Department
6. Indoor Recreation
7. Park Development and Facilities
8. Public Works
9. Parking
10. City-Wide Engineering

SCHEDULE B
RESIDENTIAL DEVELOPMENT CHARGES

CITY-WIDE UNIFORM CHARGES (2) SERVICES	Residential A \$/unit	Residential B \$/unit	Residential C \$/unit
1. General Government	\$13.79	\$10.13	\$7.75
2. Transit	\$265.82	\$195.29	\$149.45
3. Library Board	\$149.63	\$109.93	\$84.13
4. Fire Department	\$242.42	\$178.10	\$136.30
5. Police Department	\$0.00	\$0.00	\$0.00
6. Indoor Recreation	\$288.65	\$212.06	\$162.29
7. Park Development and Facilities	\$250.47	\$184.02	\$140.82
8. Public Works	\$177.99	\$130.77	\$100.07
9. Parking	\$0.00	\$0.00	\$0.00
10. City-Wide Engineering	\$4,178.23	\$3,069.69	\$2,349.18
TOTAL CITY-WIDE	\$5,567	\$4,090	\$3,130

Notes:

- (1) The development charges described above may be indexed annually under section 16 of the by-law.
- (2) City-wide rates to be applied uniformly to all development within the City, subject to the provisions of this By-law

**SCHEDULE C
NON-RESIDENTIAL DEVELOPMENT CHARGES**

CITY-WIDE UNIFORM CHARGES (2) SERVICES	\$/sq.M. of GFA See note (3) & (4)
1. General Government	\$0.07
2. Transit	\$2.81
3. Library Board	n/a
4. Fire Department	\$1.43
5. Police Department	\$0.03
6. Indoor Recreation	n/a
7. Park Development and Facilities	n/a
8. Public Works	\$1.23
9. Parking	\$0.00
10. City-Wide Engineering	\$8.91
TOTAL CITY-WIDE	\$14.48

Notes:

- (1) The development charges described above may be indexed annually under section 16 of the by-law.
- (2) City-wide rates to be applied uniformly to all development within the City, subject to the provisions of this By-law.
- (3) Industrial uses to be exempt for the term of the By-law (see Section 17 of the By-Law)
- (4) The charge for commercial uses is subject to an exemption for the first 465 square metres of new development. (See Section 17 of the By-law).

