

**THE CORPORATION OF THE CITY OF PETERBOROUGH**

**BY-LAW NUMBER 04-163**

(Repealed by 08-011)

**BEING A BY-LAW TO ESTABLISH DEVELOPMENT CHARGES FOR THE CORPORATION OF THE CITY OF PETERBOROUGH RELATED TO WATER SERVICES**

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

WHEREAS development requires the provision of physical Water services infrastructure; and

WHEREAS subsection 2(1) of the *Development Charges Act, 1997, S.O. 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 City of Peterborough (“City of Peterborough”) 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 City of Peterborough 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 September 13, 2004; and

WHEREAS the Council of the City of Peterborough had before it a report entitled Peterborough Utilities Commission Development Charge Background Study dated August 22, 2004 prepared by G. Andrew Hoggarth, Peterborough Utilities Commission Secretary-Treasurer, wherein it is indicated that the development of any land within the City of Peterborough will increase the need for water services as defined herein; and

WHEREAS the Peterborough Utilities Commission has, in exercise of its authority and jurisdiction under the *Municipal Act* with respect to water services in the City of Peterborough, passed a resolution approving this By-law and requesting its enactment by Council;

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

**DEFINITIONS**

1. In this By-law,

- (1) “Act” means the *Development Charges Act, 1997, S.O. 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 a bonafide farming operation;
- (4) “Apartment dwelling” means any dwelling unit within a building containing more than four dwelling units where the units are connected by an interior corridor;
- (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 the *Education Act*, or any successor legislation;

- (7) “Building Code Act” means the *Building Code Act*, 1992, S.O. 1992, c.23, as amended, or any successor legislation;
- (8) “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,
    - (i) rolling stock with an estimated useful life of seven years or more,
    - (ii) furniture and equipment, other than computer equipment, 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;
- (9) “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*.
- (10) “Commission” means Peterborough Utilities Commission (PUC);
- (11) “Council” means the Council of the Corporation of the City of Peterborough;
- (12) “Development” means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 8 of this By-law and including the redevelopment of land or the redevelopment expansion, extension or alteration of a use, building or structure except interior alterations to an existing building or structure which do not change or intensify the use of land;
- (13) “Development charge” means a charge imposed pursuant to this By-law;
- (14) “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, including time share units;
- (15) “Farm building” means that part of a farming operation encompassing barns, silos, and other necessary uses to a bonafide agricultural use, excluding a residential use as defined in the *Ontario Building Code*;
- (16) “Grade” means the average level of finished ground adjoining a building or structure at all exterior walls;
- (17) “Gross Floor Area” (GFA) is calculated as defined under “Total Floor Area” and has the same meaning as defined on O.Reg. 82/98 under the Act;

- (18) “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*;
- (19) “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;
- (20) “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, 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*;
- (21) “Multiple dwelling” means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;
- (22) “Municipality” means The Corporation of the City of Peterborough;
- (23) “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;
- (24) “Official Plan” means the Official Plan of the City of Peterborough and any amendments thereto;
- (25) “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;
- (26) “Planning Act” means the *Planning Act, 1990*, R.S.O. 1990, c.1, as amended, or any successor legislation;
- (27) “Public hospital” means that part of a building or structure that is defined as a public hospital under the *Public Hospitals Act*, R.S.O. 1990, c.P.40, or any successor legislation;
- (28) “Regulation” means any regulation made pursuant to the Act;
- (29) “Residential use” 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;
- (30) “Semi-detached dwelling” means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;
- (31) “Services” means services set out in Schedule “A” to this By-law;
- (32) “Single detached dwelling” means a completely detached building containing only one dwelling unit;

- (33) “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 total area of all floors 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 the 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 total area of all building floors 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.

### **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 "A".
- (2) 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, or in the case of Industrial, based on land area.
- (3) 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 water service.

### **PHASE-IN OF DEVELOPMENT CHARGES**

3. (1) The development charges imposed pursuant to this By-law are not being phased-in and are payable in full, subject to the exemptions herein, from the effective date of this By-law.
- (2) Subject to Section 12 (rules with respect to re-development) and subsection 3 (4), the development charge shall be calculated as of, and shall be payable, on the date of the first building permit is issued in relation to a building or structure on land to which the development charge applies.
- (3) Notwithstanding subsection 3 (2), the Commission 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 or after it otherwise would be payable. The terms of such an agreement shall then prevail over the provisions of this By-law.
- (4) 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.

## **APPLICABLE LANDS**

4. (1) Subject to Section 5, 6 and 7, 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.
- (2) This By-law shall not apply to lands owned by and used for the purposes of:
  - (a) a board of education;
  - (b) any municipality or local board thereof.

## **RULES WITH RESPECT TO EXEMPTIONS FOR INTENSIFICATION OF EXISTING HOUSING**

5. (1) Notwithstanding Section 4 above, no development charge shall be imposed with respect to developments or portions of developments as follows:
  - (a) the enlargement of an existing residential dwelling unit;
  - (b) the creation of one or two additional residential dwelling units in an existing single detached dwelling where the total gross floor area of each additional unit does not exceed the gross floor area of the existing dwelling unit;
  - (c) the creation of one additional dwelling unit in any other existing residential building provided the gross floor area of the additional unit does not exceed the smallest existing dwelling unit already in the building.
- (2) Notwithstanding subsection 5(1)(b), development charges shall be calculated and collected in accordance with Schedule “A” where the total residential gross floor area of the additional one or two dwelling units is greater than the total gross floor area of the existing single detached dwelling unit.
- (3) Notwithstanding subsection 5(1)(c), development charges shall be calculated and collected in accordance with Schedule “A” where the additional dwelling unit has a residential gross floor area greater than,
  - (a) in the case of semi-detached house or multiple dwelling, the gross floor area of the existing dwelling unit, and
  - (b) in the case of any other residential building, the residential gross floor area of the smallest existing dwelling unit.

## **RULES WITH RESPECT TO AN “INDUSTRIAL” EXPANSION EXEMPTION**

6. (1) Notwithstanding Section 4, 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:
  - (a) if the gross floor area is enlarged by 50 percent or less, the amount of the development charge in respect of the enlargement is zero; or
  - (b) if the gross floor area is enlarged by more than 50 percent, development charges are payable on the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement.
- (2) For the purpose of this section, 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.

- (3) In this section, for greater certainty in applying the exemption herein:
  - (a) the gross floor area of an existing industrial building shall be determined as of the date this By-law comes in to force; and
  - (b) the gross floor area of an existing industrial building is enlarged where there is a bonafide physical and functional increase in the size of the existing industrial building.

### **OTHER EXEMPTIONS**

7. Notwithstanding Section 4, development charges shall not apply to lands, buildings or structures used or to be used for the purposes of:
  - (1) lands, buildings or structures used as hospitals governed by the *Public Hospitals Act*, R.S.O. 1990, c. P. 40;
  - (2) 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) a farm building.

### **DEVELOPMENT CHARGES IMPOSED**

8. 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 and non-residential use, where, the development requires,
  - (1) the passing of a zoning by-law or an amendment thereto under Section 34 of the *Planning Act*,
  - (2) the approval of a minor variance under Section 45 of the *Planning Act*,
  - (3) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act*;
  - (4) the approval of a plan of subdivision under Section 51 of the *Planning Act*,
  - (5) a consent under Section 53 of the *Planning Act*;
  - (6) the approval of a description under Section 50 of the *Condominium Act*, or
  - (7) the issuing of a permit under the *Building Code Act*, in relation to a building or structure.

### **LOCAL SERVICE INSTALLATION**

9. 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 within the plan of subdivision or within the area to which the plan relates, as Council may require.

### **MULTIPLE CHARGES**

10. (1) Where two or more of the actions described in Section 8 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 10 (1), if two or more of the actions described in Section 8 occur at different times, and if the subsequent action has the effect of increasing the need for water services, and additional development charge on the additional residential units and non-residential floor area, shall be calculated and collected in accordance with the provisions of this By-law.

### **SERVICES IN LIEU**

11. (1) The Commission, with the approval of 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, the owner shall be entitled to 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 11 (1), the Commission 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 11 (2) shall not be charged to any development charge reserve fund.

### **RULES WITH RESPECT TO RE-DEVELOPMENT**

12. In the case of the demolition of all or part of residential or non-residential building or structure:

- (1) a credit shall be allowed, provided that the land was improved by occupied structures (or structures capable of occupancy) and legally connected to the Water Works of the City of Peterborough as of the date of passage of the by-law and a building permit has been issued for the development or redevelopment within five years from the date the demolition permit has been issued; and
- (2) if a development or redevelopment involved the demolition of and replacement of a building or structure, or the conversion from one principal use to another, a credit shall be allowed equivalent to:
  - (a) the number of dwelling units demolished / converted multiplied by the applicable residential development charge in place at the time the development charge is payable, and / or
  - (b) the gross floor area of the building demolished / converted multiplied by the current non-residential development charge in place at the time the development charge is payable. The credit can, in no case, exceed the amount of the development charge that would otherwise be payable.

### **TIMING OF CALCULATION AND PAYMENT**

13. (1) 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) Where development charges apply to land in relation to which a building permit is required, the building permit shall not be issued until the development charge has been paid in full.

#### **DEVELOPMENT CHARGES PAYABLE IN MONEY OR SERVICES**

14. (1) The Commission, 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 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, the Commission 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.
- (2) In any agreement made under subsection 14 (1), the Commission may also give a further credit equal to the owner's reasonable cost of providing services additional to or greater size or capacity than would be required under this By-law.
- (3) Any dispute as to the owner's reasonable cost, as provided in subsections 14 (1) and 14 (2) shall be determined by the Commission, whose decision shall be final and binding.

#### **SUBDIVISION AND OR SERVICING AGREEMENTS CHARGE: WHEN PAYABLE**

15. (1) If a development is subject to a Servicing Agreement or an agreement under Section 50 or 52 of the *Planning Act* then:
  - (a) the development charge shall be calculated and paid in full on the date the servicing agreement is executed, or
  - (b) at the option of the Commission and if the agreement so provides, the development charge shall be paid in full in an amount calculated as of the date of the payment, before the installation of the water service to the subject properties is begun.
- (2) If the development will not be the subject of a Servicing Agreement or an agreement under the *Planning Act*, then the whole of the development charge imposed hereunder shall be calculated and paid in full before installation of water service to the subject property is begun.
- (3) In any case where development, upon which a charge is imposed hereunder, does not require the installation of a new water service, the whole of the development charge shall be calculated and paid on a date a building permit under the *Building Code Act* is issued in respect of the building or structure for which the use to which the development charge hereunder applies.

#### **RESERVE FUNDS**

16. (1) Monies received from payment of development charges shall be maintained in a separate reserve fund for PUC water services.
- (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 funds created hereunder into a separate water services sub-account to which the development charge payments shall be credited in accordance with the amounts shown, plus interest earned thereon.

- (4) Where any development charges, 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 16 (4), the monies so collected shall be credited to the development charge reserve funds referred to in subsection 16 (1).
- (6) The Treasurer of the Municipality shall, in each year commencing in 2005 for the 2004 year, furnish to Council a statement in respect of the reserve funds established hereunder for the prior year, containing the information set out in Section 12 of O.Reg. 82/98.

#### **BY-LAW AMENDMENT OR APPEAL**

17. (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 17 (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 17 (1) shall include the interest owed under this section.

#### **BY-LAW INDEXING**

18. The development charges set out in Schedule "A" to this By-law may be adjusted annually by resolution of the Commission on the anniversary date of the By-law, without amendment to this By-law, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics".

#### **BY-LAW REGISTRATION**

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

#### **SEVERABILITY**

20. 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**

21. 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.

#### **BY-LAW ADMINISTRATION**

22. This By-law shall be administered by the Peterborough Utilities Commission pursuant to its authority under the *Municipal Act*, and charges thereof are collected and administered by the Commission

**SCHEDULES TO THE BY-LAW**

23. The following Schedule to this By-law forms an integral part of this By-law:

Schedule "A" to By-Law 04-163 Development Charge

**EXISTING BY-LAW REPEAL**

24. By-law 99-123 is repealed as of September 20, 2004.

**DATE BY-LAW EFFECTIVE**

25. This By-law shall come into force and effect on September 20, 2004.

**SHORT TITLE**

26. This By-law may be cited as the "Peterborough Utilities Commission Development Charge By-Law, 2004."

By-law read a first and second time this 20<sup>th</sup>, day of September, 2004

By-law read a third time and finally passed this 20<sup>th</sup> day of September, 2004

(Sgd.) Sylvia Sutherland, Mayor

(Sgd.) Leigh Doughty, Deputy Clerk

**SCHEDULE "A" TO BY-LAW 04-163**

**PETERBOROUGH UTILITIES COMMISSION**

**WATER DEVELOPMENT CHARGE**

<b><u>Residential</u></b>	<b><u>Measure</u></b>	<b><u>Rate</u></b>
Single Family and Semi-detached	unit	\$1,160
Other Multiples – Row housing, Townhouses and Garden houses	unit	\$852
Three Bedroom & More Apartments	unit	\$535
Two Bedroom Apartments	unit	\$349
Bachelor and Single Unit Apartments	unit	\$218
<b><u>Commercial and Institutional</u></b>	square metre of building floor space	\$4.17
<b><u>Industrial</u></b>	hectare of land	\$12,353

**Note:**

1. For purposes of this Schedule only, single family shall be deemed not to include a duplex.
2. For purposes of this Schedule only, an apartment is any building containing residential units other than set out above and includes a duplex.
3. The development charges described above may be indexed annually under Section 18 of the By-law.