

THE CORPORATION OF THE CITY OF PETERBOROUGH

**BY-LAW NUMBER 04-217
(Repealed by 08-129)**

**BEING A BY-LAW TO ESTABLISH DEVELOPMENT CHARGES
FOR THE CITY OF PETERBOROUGH
(City-wide Development Growth Area)**

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 "Development Charges Background Study", prepared by Hemson Consulting Limited, for the City of Peterborough, dated October, 2004, (the "Study");

AND WHEREAS the Study was made available to the public prior to a public meeting held on November 8, 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;

AND WHEREAS, by By-law 04-209, Council has established a City-Wide Uniform development charge, and this by-law is intended to establish an area-specific development charge for the City-wide Development Growth Area.

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” means the total of the horizontal areas of a building, as calculated by using the exterior dimensions;

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

“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;

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

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

“local board” means a local board as defined in the *Development Charges Act, 1997*;

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

“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 dwelling or row dwelling” means a residential building which contains a single dwelling unit, that has 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 dwelling” means a residential building which contains only a single dwelling unit, and which is not attached to other buildings;

“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 6 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 17, inclusive, of this By-law;

- (c) the exemptions provided for by such rules shall be the exemptions set forth in sections 18 through 20, inclusive of this By-law, the indexing of charges shall be in accordance with section 15 if this By-law and the phasing in of charges shall be in accordance with subsection 16 of this By-law; and
- (d) the redevelopment of land shall be in accordance with the rules set forth in section 21 of this By-law.

Lands Affected

- 3. (a) This By-law applies to the lands designated as the City-wide Development Growth Area on Schedule C. While every attempt has been made to accurately depict the boundaries of the Growth Areas on Schedule C, for the purposes of calculating the applicable development charge, the boundaries are considered to be conceptual. The City shall interpret the Growth Area boundaries, recognizing that the rationale for inclusion within a specific growth area is primarily related to common trunk storm and sanitary servicing systems.
- (b) This By-law shall not apply to lands which are owned by, or used for the purposes of,
 - (i) the City or a local board thereof;
 - (ii) a board of education.
- (c) The development of land within the City may be subject to one or more development charges by-laws of the City.

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) City-wide Development Growth Area Specific Engineering Infrastructure:
 - (i) Roads and related;
 - (ii) Sanitary sewage works;
 - (iii) Stormwater management works;
 - (iv) Other engineering infrastructure (as required).

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 for residential development, or the residential portion of a mixed-use development, shall be calculated based upon the number and type of dwelling units.

Amount of Charge - 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.

Indexing of Development Charges

15. The development charges set out in Schedule B hereto shall be adjusted by the City Treasurer without amendment to this By-law annually on January 1st in each year, commencing January 1, 2006, in accordance with the most recent annual change in the Statistics Canada Quarterly, Construction Price Statistics.

Phasing, Timing of Calculation and Payment

16. (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) Subject to section 21 (with respect to redevelopment), the development charges set out in Schedule B shall be calculated as of, and may be payable, at the option of the City, with respect to an approval of a plan of subdivision or a severance under section 51 or 53 of the *Planning Act*, which approval occurs on or after January 1, 2006, immediately upon entering into the subdivision or consent agreement, based upon the number and type of residential lots created and, in the case of subdivision blocks, based on the maximum zoned capacity of the block pursuant to the City's zoning by-law. When no subdivision agreement or consent agreement is required, or where the development occurs on a lot which exists as of January 1, 2006, the development charges for each building or structure shall be calculated as of the date of the complete building permit application, and shall be payable and collected as of the date the first building permit is issued in respect of the building or structure for which the development charge applies.
- (c) If at the time of issuance of a building permit or permits for any development for which payments have been made pursuant to subsection (b), the total number or type of residential units for which building permits have been and are being issued is greater than that used for the calculation and payment referred to in subsection (b), an additional payment shall be required and shall be calculated by multiplying the applicable rates for those units shown in Schedule B, by the difference between the number or type of units for which building permits have been and are being issued and the number or type of units for which payments have been made pursuant to subsection (b) and this subsection.
- (d) Subject to subsection (f), if following the issuance of all building permits for all development in a subdivision or for all development in a block within that subdivision that had been intended for future development and for which payments have been made pursuant to subsection (b), the total number or type of units for which building permits have been issued is less than that used for the calculation and payment referred to in subsection (b), a refund shall be payable by the City to the person who originally made the payment referred to in subsection (b), which refund shall be calculated by multiplying the amounts of the development charges in effect at the time such payments were made by the difference between the number or type of units for which payments were made pursuant to subsection (b) and the number and type of units for which building permits were issued.
- (e) Subsections (c) and (d) shall apply with necessary modifications to a development for which development charges have been paid pursuant to a condition of consent or pursuant to an agreement respecting same.
- (f) Notwithstanding subsection (b), the City may enter into an agreement with an owner, including the provision of security for the owners 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.
- (g) 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.
- (h) Any refunds payable pursuant to subsections (d) and (e) shall be calculated and paid without interest.

Payment by Services

17. 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

18. 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,
- (a) permitting the enlargement of an existing dwelling unit;
 - (b) 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;
 - (c) creating one additional dwelling unit in an existing semi-detached or row dwelling where the gross floor area of the additional unit does not exceed the gross floor area of the existing dwelling unit; or
 - (d) 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 in the building.

Other Exemptions

19. Notwithstanding anything else contained in this By-law, development charges shall not be imposed with respect to lands, buildings or structures used for:
- (a) a hospital governed by the *Public Hospitals Act*, R.S.O 1990, c.P.40;
 - (b) a place of worship, or a cemetery or burial ground;
 - (c) Trent University or Sir Sandford Fleming College;
 - (d) a farm building.

Temporary Buildings or Structures

20. (a) Temporary buildings or structures shall be exempt from the provisions of this By-law.
- (b) In the event that a 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 a temporary building or structure.
- (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

21. (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 by the development charge shown in Schedule B 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 credit against the payment of development charges claimed under this section.

Interest

22. The City shall pay interest on a refund under subsection 18(3), 18(5), or 25(2) of the Act, at the Bank of Canada rate on the date this By-law comes into force, updated on the first business day of every January, April, July and October.

Schedules

23. The following Schedules to this By-law form an integral part of this By-law.
- | | | |
|------------|---|---|
| Schedule A | = | Designated Services |
| Schedule B | = | Growth Area Specific Development Charges |
| Schedule C | = | Map Delineating Growth Area Specific Development Charges Area |

By-law Registration

24. A certified copy of this By-law may be registered in the Land Registry Office against title to any land to which this By-law applies.

Date By-law Effective

25. This By-law comes into force on January 1, 2005.

Date By-law Expires

26. This By-law expires on December 31, 2009.

Headings for Reference Only

27. 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

28. 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 6th day of December, 2004

By-law read a third time and finally passed this 6th day of December, 2004

(Sgd.) Henry Clarke, Deputy Mayor

(Sgd.) Nancy Wright-Laking, City Clerk

**SCHEDULE A
SERVICES**

City-wide Development Growth Area Specific Engineering Infrastructure:

- (a) Roads and related;
- (d) Sanitary sewage works;
- (e) Stormwater management works;
- (f) Other engineering infrastructure (as required).

SCHEDULE B

CITY-WIDE DEVELOPMENT AREA
AREA SPECIFIC DEVELOPMENT CHARGES

Effective Date	Residential A	Residential B	Residential C
January 1, 2005	\$772	\$666	\$453
January 1, 2006	\$772	\$666	\$453

Notes:

- 1 The development charges for January 1, 2006 will be indexed annually as per provisions of this by-law.
- 2 Additional development charges may be applicable to these lands.

SCHEDULE C

PLANNING AREA SPECIFIC
MAP OF PLANNING AREAS

