

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 19-Draft

BEING A BY-LAW TO ESTABLISH DEVELOPMENT CHARGES FOR 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 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 "Peterborough Utilities Commission Development Charges Background Study", prepared by Hemson Consulting Limited, dated May 22, 2019 (the "Study");

AND WHEREAS the Study was made available to the public prior to a public meeting held on June 24, 2019, 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, at its meeting on July 22, 2019, 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 the Peterborough Utilities Commission has, in exercise of its authority and jurisdiction under the **Municipal Act, 2001** 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 CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

Definitions

1. In this By-law,

"Act" means the *Development Charges Act, 1997*, S.O. 1997, c.27, as amended;

"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;

“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*;

“Commission” means the Peterborough Utilities Commission, a municipal service board pursuant to the *Municipal Act, 2001*.

“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;

“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 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;

“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 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 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 22 of this By-law.

Lands Affected

3.
 - a) This By-law applies to all lands in the geographic area of the City. Schedule D delineates the Planning Areas to which the specific charges apply. While every attempt has been made to accurately depict the boundaries of the Planning Areas on Schedule D, for the purposes of calculating the applicable development charge, the boundaries are considered to be conceptual. The City shall interpret the Planning 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) Water Services: City-Wide Benefit;
 - b) Water Services: Zone Area Benefit;
 - c) Water Services: Planning Area Benefit

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, R.S.O. 1990 c.P. 13, as amended*;
 - b) the approval of a minor variance under section 45 of the *Planning Act, R.S.O. 1990 c.P. 13, as amended*;
 - c) a conveyance of land to which a by-law passed under section 49(7) of the *Planning Act, R.S.O. 1990 c.P. 13, as amended* applies;
 - d) the approval of a plan of subdivision under section 51 of the *Planning Act R.S.O. 1990 c.P. 13, as amended*;
 - e) a consent under section 53 of the *Planning Act, R.S.O. 1990 c.P. 13, as amended*;
 - f) the approval of a description under section 50 of the *Condominium Act, R.S.O. 1980 c.P. 13, as amended*; 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 Commission or 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, 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 - 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 - 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 January 1 in each year, commencing January 1, 2020, in accordance with the most recent annual change in the Statistics Canada Quarterly, Construction Price Statistics.

Timing of Calculation and Payment

17. a) 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 22 (with respect to redevelopment) the development charges 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, unless such charges have become due and been paid at an earlier date pursuant to this by-law.
- c) Notwithstanding subsection (b) above, where the development charge is imposed pursuant to section 7(d) or (e) of this by-law, and the plan of subdivision or consent has been given final approval, the development charge shall become due and be payable immediately upon the signing of any subdivision or consent agreement required as a condition of such approval, and the calculation shall be based upon the number and type of residential units created and, in the case of subdivision blocks, based on the maximum zoned capacity of the block pursuant to the City zoning by-law.
- d) If at the time of issuance of a building permit or permits for any development for which payments have been made pursuant to subsection (c), 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 (c), an additional payment shall be required equal to the difference between the amount which would have been payable for the units which were the basis for calculation of the amount paid for the said development, if the rate shown in Schedule B had been in effect at that time, and the amount payable pursuant to Schedule B for the units for which building permits have been and are being used.
- e) 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 (c), the total number or type of units for which building permits have been issued is less than that used for calculation and payment referred to in subsection (c), a refund shall be payable by the Commission to the person who originally made the payment referred to in subsection (c), which refund shall be equal to the difference between the amount of the development charges paid pursuant to subsection (c), and the amount of development charges at the rates in effect at the time such payments were made, which would have been payable for the number and type of units for which building permits were issued.
- f) Subsections (d) and (e) 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.
- g) Any refunds payable pursuant to subsections (e) and (f) shall be calculated and paid without interest.
- h) Notwithstanding subsections (b) and (c), pursuant to section 27 of the Act, the Commission may enter into an agreement with a person required to pay a charge pursuant to this By-law, including the provision of security for the person's obligations under such agreement, providing for all or part of the development charge to be paid before or after or otherwise would be payable. The terms of such agreement shall then prevail over the provisions of this By-law.
- i) 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 Commission, with the approval of Council, may enter into an agreement pursuant to Section 38 of the Act, to permit an owner to provide services in lieu of the payment of all or any portion of a development charge. The City and the Commission 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:
- i) permitting the enlargement of an existing dwelling unit;
 - ii) 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;
 - iii) 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
 - iv) 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.

Other Exemptions

20. Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to:
- 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; and
 - c) a farm building.

Temporary Buildings or Structures

21. 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 Commission, with the approval of the City may require an owner to enter into an agreement, including the provision of security for the owners 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

- 22. 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 Commission 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) No credit is available if the existing land use is otherwise exempt under this By-law.
- e) The onus is on the applicant to produce evidence to the satisfaction of the Commission, acting reasonably, which establishes that the applicant is entitled to the reduction in the payment of development charges claimed under this section.

Interest

- 23. The Commission shall pay interest on a refund under subsection 18(3), 18(5), or 25(2) of the Act, shall be 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

- 24. 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
Schedule D	=	Map Delineating Planning Areas

Existing Development Charges By-law Repeal

25. By-law 13-174, a By-law to establish development charges related to water services, together with any amendments thereto, are repealed effective upon the coming into force of this By-law.

By-law Registration

26. 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

27. This By-law comes into force on date of passage.

Date By-law Expires

28. This By-law expires five years from effective date.

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, second and third time this 22nd day of July, 2019.

Diane Therrien, Mayor

John Kennedy, City Clerk

SCHEDULE A

SERVICES

- a) Water Services: City-Wide Benefit
- b) Water Services: Zone Area Benefit
- c) Water Services: Planning Area Benefit

SCHEDULE B

RESIDENTIAL DEVELOPMENT CHARGES

Water Services Planning Area	Total Charge Per Capita	Total Residential Development Charge Rates (1)		
		Residential A Singles & Semis	Residential B Other Multiples	Residential C Apartments
1. Auburn North	\$ 776.35	\$ 2,251	\$ 1,941	\$ 1,320
2. Jackson	\$ 908.89	\$ 2,636	\$ 2,272	\$ 1,545
3. Carnegie West	\$ 753.77	\$ 2,186	\$ 1,884	\$ 1,281
4. Chemong West	\$ 599.27	\$ 1,738	\$ 1,498	\$ 1,019
5. Lily Lake	\$ 886.73	\$ 2,572	\$ 2,217	\$ 1,507
6. Liftlock	\$ 607.19	\$ 1,761	\$ 1,518	\$ 1,032
7. Coldsprings	\$ 763.69	\$ 2,215	\$ 1,909	\$ 1,298
8. Outside Planning Areas	\$ 490.42	\$ 1,422	\$ 1,226	\$ 834
9. Carnegie East	\$ 232.81	\$ 675	\$ 582	\$ 396
10. Chemong East	\$ 353.85	\$ 1,026	\$ 885	\$ 602
(1) Based on Persons Per Unit of:		2.9	2.5	1.7

SCHEDULE C

NON-RESIDENTIAL DEVELOPMENT CHARGES

Water Services Planning Area	Non-Residential Charge (\$/square metre)
1. Auburn North	\$ 5.82
2. Jackson	\$ 5.82
3. Carnegie West	\$ 5.82
4. Chemong West	\$ 5.82
5. Lily Lake	\$ 5.82
6. Liftlock	\$ 5.82
7. Coldsprings	\$ 5.82
8. Outside Planning Areas	\$ 5.82
9. Carnegie East	\$ 5.82
10. Chemong East	\$ 5.82

SCHEDULE D

MAP DELINEATING PLANNING AREAS

