

THE CORPORATION OF THE TOWN OF PELHAM

BY-LAW NO. 1443(1991)

A BY-LAW OF THE CORPORATION OF THE TOWN  
OF PELHAM RESPECTING DEVELOPMENT CHARGES.

WHEREAS the Town of Pelham will continue to experience growth through development;

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

AND WHEREAS Council desires to ensure that the capital cost of meeting growth related demands on municipal services does not place an undue financial burden on the Town or its existing taxpayers while, at the same time, ensuring new taxpayers contribute no more than the net capital cost attributable to providing the current level of municipal services;

AND WHEREAS the Development Charges Act, 1989, S.O. 1989, c. 58, permits Council to pass by-laws for the imposition of development charges if development of land within the Town is for uses which would increase the need for municipal services and any one or more of the actions set out in subsection 3(1) of the Act are required for such development;

AND WHEREAS the Town has undertaken a study of, among other matters, services, expected growth, growth related facilities and the costs thereof;

AND WHEREAS Council had before it a report entitled the "Development Charges Study, Town of Pelham Final Report" submitted by Morehouse Economic Planning Consultants (a division of MEPC Consultants Inc. and hereinafter referred to as "Morehouse") dated October 21st, 1991, (the "Study");

AND WHEREAS Council has reviewed the Study and has considered the comments of the public at a public meeting duly called on October 22nd, 1991 to consider the enactment of a by-law under the Development Charges Act, 1989.

AND WHEREAS Council has given notice in accordance with Section 4 of the Act, of its intention to pass a by-law under Section 3 of the Act;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

1. In this by-law,

- (a) "Act" means the Development Charges Act, 1989, S.O. 1989, C. 58;
- (b) "Affordable Housing" means any dwelling units declared by resolution of Council to be affordable housing.
- (c) "Building Code Act" means the Building Code Act, R.S.O. 1980, c. 51, as amended;
- (d) "Capital Cost" means costs incurred or proposed to be incurred by the Town or a local board thereof directly or under an agreement,
  - (i) to acquire land or an interest in land,
  - (ii) to improve land,
  - (iii) to acquire, construct or improve buildings and structures;
  - (iv) to acquire, construct or improve facilities including,
    - (a) rolling stock, furniture and equipment, and
    - (b) materials acquired for circulation, reference or information purposes by a library board as defined in the Public Libraries Act, 1984, S.O. 1984, c. 57, and
  - (v) to undertake studies in connection with any matter under the Act and any of the matters in clauses (i) to (iv),  
required for the provision of services designated in this by-law within or outside the Town, including interest on borrowing for those expenditures under clauses (i), (ii), (iii) and (iv) that are growth-related;
- (e) "Commercial Use" has the same meaning as that which exists and is defined in the Zoning By-law;
- (f) "Council" means the Council of the Town of Pelham;
- (g) "Development" includes redevelopment;
- (h) "Development Charge" means a charge imposed with respect to growth-related net capital costs against land in the Town under this by-law;
- (i) "Dwelling" means any part of a building or structure capable of housing one or more persons;

- (j) "Dwelling Unit" means a suite of habitable rooms which:
  - (i) is located in a building;
  - (ii) is used or intended to be used in common by one or more persons as a single, independent and separate housekeeping establishment;
  - (iii) contains food preparation and sanitary facilities provided for the exclusive common use of the occupants thereof, and
  - (iv) has a private entrance directly from outside the building or from a common hallway or stairway inside the building.
- (k) "First Intensity Residential" means those lands on which are or will be constructed one or two-unit dwellings or one or two dwelling units as determined by the zoning by-law applicable to the lands;
- (l) "Front Ending Agreement" means an agreement made under Section 21 of the Act;
- (m) "Gross Floor Area" means 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 other portion of a building;
- (n) "Growth Related Net Capital Cost" means the portion of the net capital cost of services that is reasonably attributable to the need for such net capital cost that results or will result from development in all or a defined part of the Town;
- (o) "Industrial Use" includes activities associated with the manufacturing, warehousing or assembling of goods, or with any construction work;
- (p) "Institutional Use" has the same meaning as that which exists and is defined in the Zoning By-law;
- (q) "Local Board" means a school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of the Town or any part or parts thereof;
- (r) "Local Services" means those services, facilities or things which are under the jurisdiction of the Town and are within the boundaries of, abut or are necessary to connect lands to services and an application has been made in respect of the lands under Sections 40, 50 or 52 of the Planning Act;

- (s) "Net Capital Cost" means the capital cost less capital grants, subsidies and other contributions made to the Town or that the Council of the Town anticipates will be made, including conveyances or payments under Sections 41, 50 and 52 of the Planning Act, 1983 in respect of the capital cost;
- (t) "Official Plan" means the Official Plan of the Town and any amendments thereto;
- (u) "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;
- (v) "Planning Act" means the Planning Act, 1983, S.O. 1983, c. 1, as amended;
- (w) "Rate" means the interest rate established weekly by the Bank of Canada for Treasury Bills having a term of 30 days;
- (x) "Region" means The Regional Municipality of Niagara;
- (y) "Regulation" means any regulation made pursuant to the Act;
- (z) "Second Intensity Residential" means those lands on which are or will be constructed, three or more dwellings or three or more dwelling units as determined by the zoning by-law applicable to the lands;
- (aa) "Senior Citizens' Housing Units" means any residential use declared by resolution of Council to be senior citizens' housing;
- (ab) "Services" means those services designated in Schedule "A" to this by-law or specified in an agreement made under Section 21 of the Act as applicable;
- (ac) "Servicing Agreement" means a servicing agreement, site plan agreement, subdivision agreement, condominium agreement or other similar agreement entered into between an owner and the Town before this by-law was enacted;
- (ad) "Services in Lieu" means those Services specified in an agreement made under section 9 of this by-law;
- (ae) "Subsidized Housing Units" means any residential use declared by resolution of Council to be subsidized housing;
- (af) "Treasurer" means the Treasurer of the Town of Pelham;
- (ag) "Town" means The Corporation of the Town of Pelham;

- (ah) "Zoning By-law" means the Zoning By-law adopted by the Town of Pelham including any amendments thereto.
- 2. (a) This by-law applies to all lands in the Town of Pelham, whether or not the land or use thereof is exempt from taxation under Section 3 of the Assessment Act, R.S.O. 1980, c. 31.
- (b) Notwithstanding subsection 2(a) above, this by-law does not apply to the development of land that is owned by and used for the purposes of:
  - (i) a Board of Education;
  - (ii) the Town or any local board thereof; and
  - (iii) the Region or any local board thereof.
  - (iv) any other area municipality or local board thereof.
- 3. Council hereby determines that the development of land, buildings or structures for residential, commercial or industrial uses or any combination thereof will require the provision, enlargement, expansion or improvement of the services shown in the proportion applicable to each use on Schedule "A" attached hereto.
- 4. (a) Council hereby imposes the development charges shown on Schedule "B" hereto to those categories of Residential, Commercial and Industrial uses of land, buildings and structures shown on the said Schedule "B" to defray the growth related net capital cost of providing, enlarging, expanding or improving the Services shown on Schedule "A".
- (b) Subject to subsections 4(c) and (d) below, no development charge is payable where the development:
  - (i) is an enlargement of an existing dwelling unit,
  - (ii) creates one or two additional dwelling units in an existing single detached dwelling, or
  - (iii) creates one additional dwelling unit in any other existing residential building

- (c) Notwithstanding subsection 4(b) above, a development charge shall be imposed where:
  - (i) the total gross floor area of the additional one or two dwelling units exceeds the gross floor area of the existing single detached dwelling, and
  - (ii) in determining the gross floor area of the existing single detached dwelling, the gross floor area shall be the maximum gross floor area in the three years preceding an application for a building permit in respect of the additional one or two dwelling units.
- (d) Notwithstanding subsection 4(b) above, a development charge shall be imposed if the additional dwelling unit has a gross floor area greater than:
  - (i) in the case of the semi-detached or row dwelling, the gross floor area of the existing dwelling units, and
  - (ii) in the case of any other residential building, the gross floor area of the smallest dwelling unit contained in the residential building; and
  - (iii) in determining the gross floor area of the semi-detached or row dwelling or of the smallest dwelling unit in a residential building, the gross floor area shall be the maximum gross floor area in the three years preceding the application for a building permit in respect of the one additional dwelling unit.
- (e) Subject to subsection 4(f) below, and to any other terms and conditions imposed by Council the owner of the land to be developed for either subsidized housing units or senior citizens' housing units or affordable housing units shall be required to pay the development charge imposed on such development by this by-law or such other amount as Council may determine.

- (f) The Treasurer shall not accept payment of a development charge if reduced under subsection 4(e) above unless the owner has agreed, in an agreement made under Sections 40, 50 or 52 of the Planning Act that if the land for which the reduction was made under subsection 4(e) is used in the future for a purpose other than subsidized housing units or senior citizens' housing units, then the owner, before any approval is given for such change in use, shall pay:
    - (i) the balance of the development charge that otherwise would have been payable but for subsection 4(e); and
    - (ii) the difference between the aggregate of the development charge paid under subsection 4(e) and clause 4(f)(i) and any development charge applicable at the time of such change in use.
  - (g) Notwithstanding subsection 4(e) above, where the development of land includes a mix of market and seniors or subsidized housing units; that portion of the development not composed of subsidized housing units or senior citizens' housing units shall be subject to one hundred percent (100%) of the development charge imposed by section 4 above, and subsection 4(e) above shall apply to that portion of the development comprised of subsidized housing units or senior citizens' housing units or both.
  - (h) The development charges referred to in subsection 4(a) above and contained on Schedule B shall be adjusted without amendment to this by-law as of the 31st day of December 1992, and annually on the 31st day of December thereafter in accordance with the composite index for October as published in the October issue of the Southam Construction Cost Index (Ontario Series) for that year.
5. (a) Development Charges shall be payable unless exempt, and shall be imposed on residential, commercial and industrial land under development within the geographical limits of the Town of Pelham as hereinafter provided.
- (b) Development Charges shall apply and shall be calculated and collected in accordance with the provisions of this by-law on land to be developed for a residential, commercial and industrial use where the development requires;
- (i) the passing of a zoning by-law or of an amendment thereto under section 34 of the Planning Act, 1983;
  - (ii) the approval of a minor variance under Section 44 of the Planning Act, 1983;
  - (iii) a conveyance of land to which a by-law passed under Section 49(7) of the Planning Act, 1983, applies;
  - (iv) the approval of a plan of subdivision under Section 50 of the Planning Act, 1983;

- (v) a consent under Section 52 of the Planning Act, 1983;
  - (vi) the approval of a description under Section 50 of the Condominium Act; or
  - (vii) the issuing of a building permit under the Building Code Act in relation to a building or structure.
- (c) If a development does not require a building permit then the development charge shall be calculated and paid in full as a condition of the earliest of any of the approvals required for the development and mentioned in clauses 5 (b) (i) to (vi) above.
- (d) Where two or more of the actions described in Subsection 5(b) of this by-law are required before the land to which a development charge applies can be developed, only one development charge shall be calculated and collected.
- (e) Notwithstanding section 4 of this by-law, if two or more of the actions described in Subsection 5(b) of this by-law occur at different times and if the subsequent action has the effect of increasing the need for Municipal services as designated in Schedule "A" of this by-law, an additional development charge shall be calculated and collected in accordance with the provisions of this by-law.
- (f) Where, in the case of a development requiring approval under Subsection 5(b) above, and the development has only the effect of replacing existing development, the development charge established under Subsection 4(a) of this by-law shall apply only to any increase in the number of units or change in the type of units over the existing development, provided such development takes place within five (5) years of demolition.
6. (a) Development Charges shall be calculated and payable in full on the date that the building permit is issued in relation to a building or structure on land to which a development charge applies.
- (b) Where development charges apply to land in relation to which a building permit is required, a building permit shall not be issued until the development charge has been paid in full.
- (c) Despite Subsection 6(a) above, the Town may enter into an agreement with the owner to allow the provision of services in lieu of the payment of all or a portion of a development charge, and where the Town agrees to such provision of services in lieu, it shall give credit for an amount equal to the reasonable cost to the owner of providing the services.



- (d) If the Town and the owner enter into an agreement under Subsection 6(c) above that permits an owner to provide services additional to or of a greater size or capacity than is required under the by-law, the Town may agree to give a credit for an amount up to the reasonable cost to the owner of providing the services.
  - (e) Where any disagreement exists between the Town and the owner with respect to the credit for services established by the Town in an agreement under Subsection 6(c) above, the owner may appeal to the Council of the Town of Pelham, and such appeal shall follow the procedures as set out under Section 8 of the Act.
  - (f) Notwithstanding subsection 6(a) above Council may by written agreement, establish that the development charges shall be paid at an earlier date.
- 7.
- (a) If an owner or a former owner has, before the coming into force of a development charge by-law, paid all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the Planning Act, 1983 or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for the amount of the charge paid.
  - (b) If an owner or a former owner has, before the coming into force of a development charge by-law, provided services in lieu of the payment of all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the Planning Act, 1983 or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for an amount equal to the reasonable cost to the owner or the former owner of providing the services.
- 8.
- (a) This by-law shall be administered by the Treasurer of the Town.
  - (b) Council directs the Treasurer to create two reserve funds, one for the Town and one for the Pelham Hydro-Electric Commission, separate from the other reserve funds of the municipality. The Treasurer shall deposit the development charges paid under this by-law into the appropriate account of the reserve funds created by subsection 8(c) below, and shall pay from the appropriate account any amounts necessary to defray the net capital cost of the Services.
  - (c) Council further directs the Treasurer to divide the reserve funds created hereunder into separate subaccounts listed in Schedule "A" to which development charge payments and interest earned thereon shall be credited in the percentages shown in Schedule "A" opposite the account name.

- (d) The amounts contained in the reserve fund established under subsection 8(b) above, shall be invested in accordance with subsection 165(2) of the Municipal Act and any income received from such investment shall be credited to the accounts in the said reserve funds in the proportions determined by the balances in the accounts listed in subsection 8(c) above, as of December 31 of the previous year.
  - (e) The Treasurer shall furnish to Council, in each year on or before the 31st day of March, a statement in respect of the reserve fund established hereunder containing the information required under the Regulation.
- 9.
- (a) If this by-law is amended or repealed by Council or the Ontario Municipal Board, the Treasurer shall determine within 30 days of the amendment or repeal whether any owner has overpaid in respect of the development charge payable hereunder immediately prior to the repeal or amendment of this by-law and if such an overpayment has been made, the Treasurer shall calculate the amount of such overpayment.
  - (b) Any overpayment determined under subsection 9(a) above, shall be paid to the owner who made the payment or on whose behalf the payment was made within 30 days of the date of the repeal or amendment of this by-law.
  - (c) If the owner cannot be found or where the last address of the owner is unknown then the repayment obligation under subsection 9(b) above is at an end.
  - (d) The refund payable under subsection 9(b) above shall be paid with interest calculated from the date upon which the overpayment was collected to the date on which the refund is made. Such interest shall be paid at the rate in effect from time to time from the date of enactment of this by-law as adjusted in subsection 9(e) below.
  - (e) The rate in effect on the date of enactment of this by-law shall be adjusted on the first business day of January, 1992, to the rate to be applicable on that day and thereafter the rate shall be adjusted four times each year on the first business days of April, July, October and January to the rate applicable on the day of the adjustment.
- 10.
- (a) Any amount of development charge which remains unpaid after the date specified in section 6(a) of this by-law shall be added to the tax roll and collected as unpaid taxes.
  - (b) Where any unpaid development charges are collected as taxes under section 10(a) above, the money so collected shall be credited to the accounts in the said reserve funds in the proportions provided for in Schedule "A".

11. By-law Nos. 995(1985) and 1252(1989) as amended are hereby repealed effective on the date this by-law comes into force.
12. Council, from time to time and at any time, may enter into Front Ending Agreements under the Act.
13. This by-law shall continue in force and effect ~~for a term not to exceed five (5) years from the date of its coming into force.~~ indefinitely (By-law #1838 (1996))
14. This by-law comes into force and takes effect on the 5th day of November, 1991.

READ A FIRST TIME THIS 4th day of November, 1991.

READ A SECOND AND THIRD TIME AND FINALLY PASSED THIS 4th day of November, 1991.



MAYOR



CLERK