

THE CORPORATION OF THE CITY OF NORTH BAY

BY-LAW NO. 200-91

A BY-LAW TO IMPOSE INTERIM DEVELOPMENT CHARGES ON
LAND AND BUILDINGS

WHEREAS the existing extended service fee of \$200.00 per dwelling unit for residential buildings is insufficient to pay for growth related net capital costs;

AND WHEREAS the Council has agreed to undertake studies in connection with land, buildings, structures and facilities as contemplated by the Development Charges Act and to fund such studies in whole or in part from development charges;

AND WHEREAS Council has adopted a report dated April 26, 1991 by M.L. Daiter entitled "Development Charges Act";

AND WHEREAS existing obligations of an owner to pay for extended service fees and services for water supply, sanitary sewers, storm drainage and transportation shall be in addition to the interim development charges levied herein;

AND WHEREAS since 1985, the average contribution by owners in subdivision agreements has been \$983.00 per dwelling unit to cover the net capital costs of the services designated in subdivision agreements to enable the lands to be developed;

AND WHEREAS the full growth related net capital costs of the municipality may be estimated at more than \$3,000.00 per residential dwelling unit;

AND WHEREAS the growth related net capital costs attributable to the Rural Area may be estimated at 50% of the total of such costs;

AND WHEREAS it is deemed desirable to pass a by-law to impose development charges against land which, if developed, will increase the need for services pursuant to section 3 (1) of the Development Charges Act and which land requires an approval referred to in Section 4 hereto;

AND WHEREAS the Council has held at least one public meeting with notice and ensured the availability of sufficient information to the public and heard all persons who applied to be heard pursuant to the terms of section 4 of the Development Charges Act.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF NORTH BAY HEREBY ENACTS AS FOLLOWS:

1. In this by-law,
 - (a) "capital cost" means costs incurred or proposed to be incurred by a municipality 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 rolling stock, furniture and equipment; and
 - (v) to undertake studies in connection with any of the matters in clauses (i) to (iv),

required for the provision of services designated in a development charge by-law within or outside the municipality, including interest on borrowing for those expenditures under clauses (i), (ii), (iii) and (iv) that are growth related;

- (b) "development" includes redevelopment;
- (c) "development charge" means a charge imposed with respect to growth related net capital costs against land under this by-law;
- (d) "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 municipality;
- (e) "local board" means a school board, public utility commission, public library board, local board of health, board of commissioners of police, 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 City of North Bay or any part or parts thereof;
- (f) "net capital cost" means the capital cost less capital grants, subsidies and other contributions made to a municipality or that the Council of the municipality 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;
- (g) "owner" means the owner of the land or a person who has made application for an approval for the development of land upon which a development charge is imposed;
- (h) "services" means services designated in Parts II and III of this by-law.

PART I

APPLICATION

- 2. This by-law shall apply to all lands within the City of North Bay.
- 3. (1) Subject to subsection (2), this by-law applies to all lands in the City of North Bay, whether or not the land or use is exempt from taxation under section 33 of the Assessment Act, R.S.O. 1980, c. 31.
- (2) This by-law shall not apply to land that is owned by and used for the purposes of,
 - (a) a board of education as defined by section 29 (1) of the Development Charges Act, 1989, S.O. 1989, c. 58;
 - (b) the City of North Bay or any local board thereof.
- 4. (1) Subject to subsection (2), 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 residential and non-residential use, where,

- (a) the development of the land will increase the need for services; and
 - (b) the development requires,
 - (i) the passing of a zoning by-law or of an amendment thereto under section 34 of the Planning Act, 1983, S.O. 1983, c. 1;
 - (ii) the approval of a minor variance under section 44 of the Planning Act, 1983, S.O. 1983, c. 1;
 - (iii) a conveyance of land to which a by-law passed under subsection 49 (7) of the Planning Act, 1983, S.O. 1983, c. 1 applies;
 - (iv) the approval of a plan of subdivision under section 50 of the Planning Act; 1983, S.O. 1983, c. 1;
 - (v) a consent under section 52 of the Planning Act, 1983;
 - (vi) the approval of a description under section 50 of the Condominium Act, R.S.O. 1980, c. 84; or
 - (vii) the issuing of a permit under the Building Code Act, R.S.O. 1980, c. 51, in relation to a building or structure.
- (2) Subsection (1) shall not apply in respect of,
- (a) local services installed at the expense of the owner within a plan of subdivision as a condition of approval under section 50 of the Planning Act, 1983, S.O. 1983, c. 1;
 - (b) local services installed at the expense of the owner as a condition of approval under section 52 of the Planning Act, 1983; or
 - (c) local connections to water mains, sanitary sewers and storm drainage facilities installed at the expense of the owner including amounts imposed under a by-law passed under section 219 of the Municipal Act, R.S.O. 1980, c. 302.
5. Development charges as set out in Parts II and III of this by-law shall apply to all lands that are developed for residential and non-residential use in accordance with this by-law, but only insofar as,
- (a) the growth related net capital costs are attributable to that use; and
 - (b) the growth related net capital cost of each service is attributable to the service or standard of service being provided at the time the development charges are being calculated.

6. (1) Where two or more of the actions described in section 4 (1) 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 (1), if two or more of the actions described in section 4 (1) occur at different times, and if the subsequent action has the effect of increasing the need for municipal services as designated in sections 7 and 12, an additional development charge shall be calculated and collected in accordance with the provisions of this by-law.

PART II

RESIDENTIAL DEVELOPMENT CHARGES

7. In this part,
 - (a) "apartment" means a building consisting of one or more dwellings which is not a single detached dwelling, a semi-detached dwelling or a row dwelling;
 - (b) "bedroom" means any room that allows for the use of one or more persons, including but not limited to a den and family room, but does not include a room clearly designed as a kitchen, living room, dining room or bathroom;
 - (c) "development charge" means residential development charge;
 - (d) "grade" means the average level of finished ground adjoining a dwelling unit at all exterior walls;
 - (e) "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;
 - (f) "residential" means designed, adapted or used as a home or residence of one or more individual and shall include a single detached dwelling, a semi-detached dwelling, a row dwelling and an apartment;
 - (g) "semi-detached or row dwelling" means a residential building consisting of more than one dwelling unit having one or two vertical walls, but no other parts, attached to another structure;
 - (h) "single detached dwelling" means a residential building consisting of one dwelling unit and not attached to another structure.

FACILITIES

8. (1) Development charges against land to be developed for residential use shall be based upon services for oversizing of roads, transit facilities, street lights, sanitary sewers, storm sewers, watermains and drainage courses.

- (2) In addition to the services referred to in subsection (1) and without imposing any obligation to contribute development charges funds to such services, the development charges for residential use may be applied to the following designated services:
- (a) indoor and outdoor recreational facilities and lands related thereto;
 - (b) parklands and other outdoor park facilities including sports fields and courts, landscaping, lighting, fencing, benches, but excluding the land required therefor by way of parkland dedication pursuant to sections 41, 50 and 52 of the Planning Act, 1983, S.O. 1983, c. 1;
 - (c) fire stations and equipment and services related thereto;
 - (d) public works buildings and equipment and services related thereto;
 - (e) oversizing of a new traffic operations control building, installation of traffic signs, and services related thereto.

RESIDENTIAL

9. (1) Urban Area Development charges are hereby imposed upon each residential dwelling unit to be constructed upon any land, designated as being in the Urban Area of the North Bay Official Plan as follows:

1991 - \$1200.00
1992 - \$1400.00
1993 - \$1600.00
1994 - \$1800.00
1995 - \$2000.00

- (2) Rural Area Development charges are hereby imposed upon each residential dwelling unit to be constructed upon any land designated as being in the Rural Areas of the North Bay Official Plan as follows:

1991 - \$ 600.00
1992 - \$ 700.00
1993 - \$ 800.00
1994 - \$ 900.00
1995 - \$1000.00

- (3) Special Area In addition to the above charges, area development charges are hereby imposed upon each residential dwelling unit to be constructed upon any land in the Airport Heights Planning District in the North Bay Official Plan as follows:

- (a) \$1850.00 for each dwelling unit connected to the Ski Club trunk sanitary sewer area and not directly connected by gravity to the trunk sewer;
- (b) \$1000.00 for each dwelling unit within Pressure Zone '4' of the water distribution system, as shown on Schedule "A".

- (4) Development charges payable under subsection (1), (2) or (3) shall be adjusted to account for the full amount of any development charge paid under the terms of a subdivision agreement with the City of North Bay executed prior to the date of the passing of this by-law.

DWELLING UNITS

10. (1) Subject to subsections (2) and (3), section 9 shall not apply in respect of the creation of,
 - (a) one or two additional dwelling units in an existing single detached dwelling; or
 - (b) an additional dwelling unit in any other existing residential building.
- (2) Notwithstanding subsection (1) (a), development charges shall be calculated and collected in accordance with section 9 (1) where the total gross floor area of the additional one or two units is greater than the total gross floor area of the existing dwelling unit.
- (3) Notwithstanding subsection (1) (b), development charges shall be calculated and collected in accordance with section 9 (1) where the additional unit has a gross floor area greater than,
 - (a) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and
 - (b) in the case of any other residential building, the gross floor area of the smallest dwelling unit contained in the residential building.
- (4) Where a non-profit or co-operative housing project has had funding allocated by the Minister of Housing or Canada Mortgage and Housing Corporation prior to the date of enactment of this by-law, and where the non-profit or co-operative housing project has been costed in accordance with the development charge rate in effect prior to the date of enactment of this by-law, the development charge rate in effect prior to the date of enactment of this by-law shall apply.

NON-RESIDENTIAL

11. A development charge of \$900.00 per acre of ground floor area of any non-residential building is hereby imposed.

PART III

ADMINISTRATION

12. (1) 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.
 - (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.
13. A certified copy of this by-law may be registered on title to any land to which this by-law applies.

RESERVE FUND

14. (1) Monies received from payment of development charges other than special area development charges shall be maintained in a reserve fund and shall be used only to meet the gross related net capital costs for which the development charge was levied or is authorized to be applied under this by-law.
- (2) Monies received from payment of special area development charges shall be maintained in a separate reserve fund and shall be used only to meet the gross related capital costs for the special area for which the development charges was levied under this by-law.
- (3) Income received from investment of the development charge reserve fund or funds shall be credited to the development charge reserve fund or funds in relation
- (4) Where any development charge, 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 (3), the monies so collected shall be credited to the development charge reserve fund or funds referred to in subsection (1).

REFUND

15. (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 Council of The Corporation of the City of North Bay, the Treasurer for the City of North Bay 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 (1) shall be paid to the registered owner of the land on the date on which the refund is paid.
 - (3) (a) Refunds that are required to be paid under subsection (1) shall be paid with interest earned.
(b) Interest shall be calculated from the date on which the overpayment was paid to the date on which the refund is paid.
16. This by-law shall be administered by the Engineering and Works Department, Planning and Development Department and the Financial Services Department of The Corporation of the City of North Bay.
 17. Notwithstanding any other provision of this by-law, where an application for a building permit is submitted to the Building Department of the City of North Bay prior to the date of enactment of this by-law, the development charge rate in effect prior to the date of enactment of this by-law shall apply.


NOTICE

18. (a) Notice of this by-law shall be given by the Clerk in the manner and form and to the persons prescribed by Ontario Regulation 725/89 not later than twenty (20) days after the day this by-law is passed.
- (b) Where no notice of appeal is filed with the Clerk of The Corporation of the City of North Bay within thirty-five (35) days from the passing of this by-law, then this by-law shall be deemed to have come into force on the day it was passed.
- (c) Where one or more notices of appeal are filed with the Clerk of The Corporation of the City of North Bay within thirty-five (35) days from the passing of this by-law setting out the objection, then this by-law shall not come into force until all appeals have been finally disposed of, whereupon the by-law shall be deemed to have come into force on the day it was passed.
19. This by-law may be cited as the Interim Development Charges By-law.
20. (1) This by-law shall come into force and effect on the date of its enactment.
- (2) This by-law shall continue in force and effect for a term not to exceed five (5) years from the date of its enactment, unless it is repealed at an earlier date by subsequent by-law.
21. That By-law No. 107-91 is hereby repealed.

READ A FIRST TIME IN OPEN COUNCIL THE 15TH DAY OF OCTOBER, 1991.

READ A SECOND TIME IN OPEN COUNCIL THE 15TH DAY OF OCTOBER, 1991.

READ A THIRD TIME IN OPEN COUNCIL AND FINALLY ENACTED AND PASSED THIS 15TH DAY OF OCTOBER, 1991.


MAYOR


CITY CLERK

DB#		FOLIO#	
ORDER ISSUE DATE			
FEB 01 1993			
OB#	1993-1	FOLIO#	264



S 920070

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

IN THE MATTER OF Section 4(4) of the
Development Charges Act, (S.O. 1989,
c. 58)

AND IN THE MATTER OF an appeal by E.
Anderson against By-law No. 200-91 of
the City of North Bay

B E F O R E :

T.F. BAINES
Vice-Chair

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Wednesday, the 27th day
of January, 1993

UPON APPEAL to this Board against By-law No. 200-91 and such appeal
having been denied;

THE BOARD ORDERS that this appeal is dismissed.

Liana Meri
SECRETARY

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