



BY-LAW NUMBER 2011-

A By-law of the Corporation of the City of Barrie, to establish an area-specific development charge for the Whiskey Creek Stormwater Management Works and Downstream Conveyance Works, pursuant to an Area-Specific Development Charge Background Study

WHEREAS Subsection 2(1) of the *Development Charges Act, 1997*, c. 27 (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 Barrie (the "City of Barrie") has given Notice of a Public Meeting, in accordance with Section 12 of the Act, of its intention to pass a by-law under Section 2 of the Act;

AND WHEREAS the Council of The Corporation of the City of Barrie has heard all persons who applied to be heard no matter whether in objection to, or in support of, the area-specific development charge proposal at a public meeting held on May 16, 2011;

AND WHEREAS the Council of The Corporation of the City of Barrie received and had before it a revised report entitled Development Charge Background Study Regarding Whiskey Creek Stormwater Management Works and Downstream Conveyance Works prepared by Watson & Associates Economists Ltd., dated May 27, 2011 wherein it is indicated that the development of any land within the specified areas designated in Schedule "A" to this By-law will increase the need for services as defined therein;

AND WHEREAS the Council of The Corporation of the City of Barrie on June 13, 2011 approved the revised City of Barrie Development Charge Background Study Regarding Whiskey Creek Stormwater Management Works and Downstream Conveyance Works dated May 27, 2011, in which certain recommendations were made relating to the establishment of an area specific development charge pursuant to the Act;

AND WHEREAS the Council of The Corporation of the City of Barrie at its meeting on June 13, 2011 by motion 11-G-171 determined that no additional public meeting was required.

NOW THEREFORE, the Council of The Corporation of the City of Barrie enacts as follows:

AREA-SPECIFIC DEVELOPMENT CHARGE – WHISKEY CREEK STORMWATER MANAGEMENT WORKS AND DOWNSTREAM CONVEYANCE WORKS

1. **THAT** an area-specific development charge shall be imposed on the lands set out in Schedule "A" of this by-law in accordance with the terms and provisions set out therein.

DATE BY-LAW EFFECTIVE

2. **THAT** this by-law comes into force on the date following the date of its passage by the Council of The Corporation of the City of Barrie.

SCHEDULES

3. **THAT** the following Schedules to this by-law form an integral part of this by-law:

Schedules "A", "A-1", "A-2" and "A-3"

READ a first and second time this 27th day of June, 2011

READ a third time and finally passed this 27th day of June, 2011.

THE CORPORATION OF THE CITY OF BARRIE

MAYOR – J. R. LEHMAN

CITY CLERK – DAWN A. MCALPINE

SCHEDULE "A"

**CITY OF BARRIE BY-LAW 2011-
SCHEDULE OF AREA-SPECIFIC DEVELOPMENT CHARGES FOR
WHISKEY CREEK STORMWATER MANAGEMENT WORKS AND DOWNSTREAM
CONVEYANCE WORKS AREA**

DEFINITIONS

1. For the purposes of this Schedule, the following definitions shall apply:

- (1) **"Act"** means the *Development Charges Act, 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) **"Board of Education"** means a board defined in Subsection 1(1) of the *Education Act* R.S.O. 1990, c.E.2;
- (4) **"Building Code Act"** means the Building Code Act, S.O. 1992, c.23 as amended;
- (5) **"capital cost"** means costs incurred or proposed to be incurred by the municipality or a local board directly or by others on behalf of, and as authorized by, a municipality or local board
 - (a) to acquire land or an interest in the 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
 - (iii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, c.P.44;
 - (e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d);
 - (f) interest on money borrowed to pay for costs in (a) to (d);
 - (g) to complete the development charge background study under Section 10 of the Act;

required for provision of services designated in this Schedule within or outside the municipality.
- (6) **"Council"** means the Council of The Corporation of the City of Barrie;
- (7) **"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 Schedule 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 that to not change or intensify the use of the land;
- (8) **"development charge"** means a charge imposed pursuant to this Schedule;
- (9) **"local board"** means a public utility commission, public library board, local board of health or any other board, commission, 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;
- (10) **"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 Section 51 of the *Planning Act*, or as a condition of approval under Section 53 of the *Planning Act*;
- (11) **"municipality"** means The Corporation of the City of Barrie;
- (12) **"non-residential use"** means a building or structure used for other than a residential use;
- (13) **"official plan"** means the Official Plan of the City of Barrie and any amendments thereto;

- (14) “**owner**” means the owner(s) of land or a person(s) who has made application for an approval for the development of land upon which a development charge is imposed;
- (15) “**Planning Act**” means the *Planning Act*, R.S.O. 1990, c.P.13 as amended;
- (16) “**regulation**” means any regulation made pursuant to the Act;
- (17) “**residential uses**” 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;
- (18) “**services**” means services set out in Schedule A-1 to this Schedule.

SCHEDULES OF DEVELOPMENT CHARGES

- 2. (a) Subject to the provisions of this Schedule, development charges against land shall be imposed, calculated and collected in relation to the services set out in Schedule “A-1”.
- (b) The development of residential and non-residential lands within the areas defined in Schedule “A-3” are subject to the charges set out in Schedule “A-2”.
- (c) 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 services referenced in Schedule “A-1”.

PHASE IN OF DEVELOPMENT CHARGES

- 3. 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 Schedule.

APPLICABLE LANDS

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

RULES WITH RESPECT TO EXEMPTIONS FOR INTENSIFICATION OF EXISTING HOUSING

- 5. (a) Notwithstanding Section 4 above, no development charge shall be imposed with respect to developments or portions of developments as follows:
 - (i) the enlargement of an existing residential dwelling unit;
 - (ii) 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;
 - (iii) 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 dwelling unit already in the building.
- (b) Notwithstanding subsection 5(a)(ii), development charges shall be calculated and collected in accordance with Schedule “A-2” 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.
- (c) Notwithstanding subsection 5(a)(iii), development charges shall be calculated and collected in accordance with Schedule “A-2” where the additional dwelling unit has a residential gross floor area greater than,
 - (i) in the case of a semi-detached house or multiple dwelling, the gross floor area of the existing dwelling unit, and
 - (ii) 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. (a) Notwithstanding Section 4 above, 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:
 - (i) 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
 - (ii) 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.
- (b) For the purposes 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.

DEVELOPMENT CHARGES IMPOSED

7. (a) Subject to subsections (b) and (c), development charges shall be calculated and collected in accordance with the provisions of this Schedule and be imposed on land to be developed for residential and non-residential use where the development requires:
 - (i) the passing of a zoning by-law or an amendment thereto under Section 34 of the *Planning Act*;
 - (ii) the approval of a minor variance under Section 45 of the *Planning Act*;
 - (iii) a conveyance of land to which a by-law passed under subsection 49(7) of the *Planning Act* applies;
 - (iv) the approval of a plan of subdivision under Section 51 of the *Planning Act*;
 - (v) a consent under Section 53 of the *Planning Act*;
 - (vi) the approval of a description under Section 50 of the *Condominium Act*, S.O. 1990, c. 19;
 - (vii) the issuing of a permit under the *Building Code Act* in relation to a building or structure.
- (b) Subsection (a) shall not apply in respect to
 - (i) local services installed or paid for by the owner within a plan of subdivision or within the area to which the plan relates, as a condition of approval under Section 51 of the *Planning Act*;
 - (ii) local services installed or paid for by the owner as a condition of approval under Section 53 of the *Planning Act*.
- (c) Where an owner proposes to develop land within a development area in accordance with the areas shown in Schedule A-3 and the land to be developed comprises less than 100 percent of a defined development area as set out in Schedule A-3, the amount of the charge may be calculated and collected, at the discretion of the municipality, on the basis of the proportion to which the land subject to the development application bears to the total development area, applied to the charge in Schedule A-2. For greater certainty, land to be developed shall be deemed to include land to be dedicated to the municipality or any other public agency within a defined development area.

LOCAL SERVICE INSTALLATION

8. Nothing in this Schedule 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

9. Where two or more of the actions described in subsection 7(a) 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 provision of this Schedule.

SERVICES IN LIEU

10. (a) 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, Council shall give to the owner 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 that exceeds the total development charge payable by an owner to the municipality in respect of the development to which the agreement relates.
- (b) In any agreement under subsection 10(a), Council 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 that would be required under this Schedule.
- (c) The credit provided for in subsection 10(b) shall not be charged to any development charge reserve fund.

RULES WITH RESPECT TO RE-DEVELOPMENT

11. (a) No credit shall be given if all or part of a residential or non-residential building or structure is demolished.
- (b) Notwithstanding subsection 11(a), if a development charge has previously been paid under this Schedule or a predecessor by-law for the Whiskey Creek Downstream Conveyance Works in respect of development of land, and the land is being redeveloped:
- (i) the development charge payable in respect of the redevelopment will be calculated under this by-law;
- (ii) the development charge determined under paragraph (i) will be reduced by a credit equivalent to the development charge previously paid in respect of the land provided that the owner provides proof of payment satisfactory to the City of Barrie and the credit does not exceed the development charge determined under paragraph (i).

TIMING AND CALCULATION OF PAYMENT

12. (a) Development Charges shall be calculated and payable in full in money, on the date of registration of a plan of subdivision under section 51 of the *Planning Act* or upon the date of the granting of any severance approved under section 53 of the *Planning Act*.
- (b) Notwithstanding subsection (a), if no new plan of subdivision is required, development charges shall be calculated and payable on the date of the first building permit issued in relation to a building or structure on land to which a building permit applies.
- (c) 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.

RESERVE FUNDS

13. (a) Monies received from payment of development charges shall be maintained in two separate reserve funds as follows: Whiskey Creek Stormwater Management Works and Whiskey Creek Downstream Conveyance Works.
- (b) Monies received for the payment of development charges shall be used only in accordance with the provisions of Section 35 of the Act.
- (c) 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.
- (d) Where any unpaid development charges are collected as taxes under subsection (c), the monies so collected shall be credited to the development charge reserve funds referred to in subsection (a).
- (e) The Treasurer of the Municipality shall, in each year commencing in 2012 for the 2011 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

14. (a) Where this Schedule or any development charge prescribed hereunder 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.
- (b) Refunds that are required to be paid under subsection (a) shall be paid with interest to be calculated as follows:
- (i) Interest shall be calculated from the date on which the overpayment was collected to the date on which the refund is paid;
- (ii) The Bank of Canada interest rate in effect on the date of enactment of this Schedule shall be used.
- (c) Refunds that are required to be paid under subsection (a) shall include the interest owed under this section.

BY-LAW INDEXING

15. The development charges set out in Schedule "A-2" to this Schedule shall be adjusted annually, without amendment to this by-law, commencing on January 1, 2012, and annually on the first of January thereafter in accordance with the indexing requirements set out under the City of Barrie's Development Charge By-law 2008-111 or a successor by-law.

BY-LAW REGISTRATION

16. A certified copy of the By-law of which this Schedule forms a part may be registered on title to any land to which it applies.

SEVERABILITY

17. 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 this by-law shall remain in full force and effect.

HEADINGS FOR REFERENCE ONLY

18. The headings inserted in this Schedule are for convenience of reference only and shall not affect the construction or interpretation of this Schedule or the By-law of which it forms a part.

BY-LAW ADMINISTRATION

19. This by-law shall be administered by the Municipal Treasurer.

SCHEDULES

20. The following Schedules are attached hereto and form an integral part hereof as well as the By-law of which this Schedule forms a part:

- Schedule A-1 - Schedule of Municipal Services
- Schedule A-2 - Schedule of Area Specific Development Charges for Whiskey Creek Stormwater Management Works and Downstream Conveyance Works
- Schedule A-3 - Schedule of Areas in which Area Specific Development Charges for Whiskey Creek Stormwater Management Works and Downstream Conveyance Works apply.

SHORT TITLE

21. The By-law to which this and all Schedules referred to herein are attached may be cited as the "Whiskey Creek Stormwater Management Works and Downstream Conveyance Works Development Charges By-law, 2011".

**SCHEDULE “A-1”
CITY OF BARRIE BY-LAW 2011-
SCHEDULE OF MUNICIPAL SERVICES FOR
WHISKEY CREEK STORMWATER MANAGEMENT WORKS AND DOWNSTREAM
CONVEYANCE WORKS AREA**

1. WHISKEY CREEK STORMWATER MANAGEMENT POND WORKS (INCLUDING STOLP POND IMPROVEMENTS)
2. WHISKEY CREEK DOWNSTREAM CONVEYANCE WORKS (INCLUDING DC STUDY COSTS)

SCHEDULE “A-2”
CITY OF BARRIE BY-LAW 2011-
SCHEDULE OF MUNICIPAL SERVICES FOR
WHISKEY CREEK STORMWATER MANAGEMENT WORKS AND DOWNSTREAM
CONVEYANCE WORKS AREA

NO.	DEVELOPMENT AREAS	WHISKEY CREEK STORM WATER MANAGEMENT POND WORKS	WHISKEY CREEK DOWNSTREAM CONVEYANCE WORKS (INCLUDING DC STUDY COSTS)	TOTAL DC ELIGIBLE COSTS
1A	Barrie - Bryne Developments - Industrial (formerly Lorne Properties - Industrial)	\$211,142	\$503,701	\$714,843
1B	Barrie - Bryne Developments - Commercial (formerly Lorne Properties - Commercial)	\$0	\$188,862	\$188,862
1C	Barrie - Bryne Developments - Commercial (formerly Lorne Properties - Commercial)	\$0	\$352,407	\$352,407
1D	1074243 Ontario Limited - Industrial (formerly Lorne Properties - Industrial)	\$81,347	\$194,060	\$275,407
1E	1074243 Ontario Limited - Industrial (formerly Lorne Properties - Industrial)	\$0	\$103,689	\$103,689
1F	Discovery Daycare	\$0	\$32,343	\$32,343
2	Harvie Island Estates - Residential (formerly Lorne Properties - to Res)	\$0	\$120,778	\$120,778
3	Mason Homes Ltd.	\$598,758	\$824,655	\$1,423,413
4	ASV Enterprises - Townhouse (formerly Lorne Properties - Townhouse)	\$0	\$56,091	\$56,091
5	Future Development - Residential	\$22,768	\$31,358	\$54,126
6	Sunfield Homes (Mapleview III)	\$252,676	\$348,004	\$600,680
7	Future Res - Allandale Veterinary Clinic	\$8,658	\$11,925	\$20,583
8	Future Comm - Allandale Veterinary Clinic	\$57,870	\$79,703	\$137,574
9	Jarlette	\$0	\$78,276	\$78,276
10	Rob-Geoff	\$0	\$246,625	\$246,625
11A	Pratt Construction (Pratt-Holly Meadows)	\$0	\$156,675	\$156,675
11B	Barrie 27 Holdings	\$0	\$240,265	\$240,265
12A	Essa - Ferndale Development	\$0	\$77,819	\$77,819
12B	Pratt Ferndale Townhouse	\$0	\$34,856	\$34,856
13	Beacon Subdivision	\$0	\$95,532	\$95,532
14	Future Residential	\$0	\$113,922	\$113,922
15	Bell Media	\$0	\$451,034	\$451,034
TOTALS		\$1,233,220	\$4,342,584	\$5,575,804

SCHEDULE "A-3"
CITY OF BARRIE BY-LAW 2011-
SCHEDULE OF AREA-SPECIFIC DEVELOPMENT CHARGES FOR WHISKEY CREEK STORMWATER MANAGEMENT WORKS AND
DOWNSTREAM CONVEYANCE WORKS AREA

MAP 1-1

DEVELOPMENT AREAS

- 1A. Barrie-Bryne Developments-Industrial (formerly Lorne Properties) Draining to Pond A
- 1B. Barrie-Bryne Developments-Commercial (formerly Lorne Properties) NOT Draining to Pond A
- 1C. Barrie-Bryne Developments-Commercial (formerly Lorne Properties) NOT Draining to Pond A
- 1D. 1074243 Ontario Limited-Industrial (formerly Lorne Properties) Draining to Pond A (4.02 ha)
- 1E. 1074243 Ontario Limited-Industrial (formerly Lorne Properties) NOT Draining to Pond A
- 1F. Discover Child Care Centre Commercial Draining to Pond A (0.68)
- 2. Harvie Island Estates-Residential (formerly Lorne Properties)
- 3. Mason Homes Ltd
- 4. ASV Enterprises-Townhouse (formerly Lorne Properties)
- 5. Future Development
- 6. Sunfield Homes (Mapleview Phase III)
- 7. Allandale Veterinary Future Residential
- 8. Allandale Veterinary Future Commercial
- 9. Jarlette
- 10. Rob Geoff
- 11A. Pratt Construction Ltd.
- 11B. 27 Holdings
- 12. Future Development
- 13. Beacon Subdivision
- 14. Future Residential
- 15. Bell Media Site

