

**DEVELOPMENT CHARGES AMENDMENT STUDY:
RESIDENTIAL APARTMENT EXEMPTION AND
REMOVAL OF EXCLUSION OF INDUSTRIAL ZONED LAND**

City of Peterborough

**City-wide General Service Charges By-Law 14-134
City-wide Engineering Service Charges By-Law 14-135**

HEMSON Consulting Ltd.

January, 2018

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I INTRODUCTION

Development charges are imposed against land to pay for increased capital costs required because of increased needs for services arising from development. In 2014, the City of Peterborough retained Hemson Consulting Ltd. to undertake a development charges background study to establish city-wide development charges for the City. The City of Peterborough (Council) passed development charges By-Law 14-134 (City-wide General Service Charges) and By-Law 14-135 (City-wide Engineering Service Charges) under section 2(1) of the *Development Charges Act, 1997* (DC Act) and both By-Laws took effect January 1, 2015.

In September 2017, Council directed staff to amend its existing development charges by-laws, By-Law 14-134 and By-Law 14-135, to exempt development charges for “Schedule J” - Central Area Lands of the Official Plan for:

- i. Residential developments with a minimum of 15 units
- ii. Mixed-use developments that contain a minimum of 15 apartment units and a minimum of 1,000 square metres of commercial gross floor area will be exempt from the payment of development charges based on the following rules:
 - a. The first 15 apartment units and the first 1,000 square meters of commercial gross floor area will be exempt;
 - b. Each additional apartment unit, beyond the first 15 units is eligible for exemption; and
 - c. Each additional 67 square meters of commercial gross floor area beyond the initial 1,000 square meters must be matched with a residential unit to be eligible for exemption.

Staff were also directed to review the amendment of the exemption of Industrial zoned land from development charges. Under the proposed amendment, industrial development occurring outside the Cleantech Commons land would be subject to a development charge (DC). Therefore, industrial uses of lands, buildings or structures within the Cleantech Commons land will continue to be exempt from the payment of DCs.

Staff Report PLPD17-044, Conduct Background Study to Consider Exemption of Development Charges for "Schedule J" Lands for Residential/Mixed Use

Developments and Removal of Industrial Zoned Land Exemption, Planning and Development Services, September 2017, here after referred to as “Staff Report”, outlines staff response to Council’s request.

Sections 10 (1) and 19 (1) of the DC Act require that before passing an amendment to a development charge by-law, Council must complete a development charge background study. The purpose of this DC Amendment Study is to meet the requirements of the DC Act and this study can be used as the basis for passing the proposed by-law amendments. It is important to note that this amendment has no effect on the Development Charge rates currently imposed by the City and all components of the City’s 2014 Background Study remain unchanged.

The report is organized as follows:

Section II presents a summary of the 2014 DC Background Study and By-laws.

Section III presents the proposed By-law changes.

Section IV summarizes the development charges by-law amendment process.

II SUMMARY OF 2014 DC BACKGROUND STUDY

The DC Act requires that a development charges background study include estimates of the anticipated amount, type and location of development, calculations of development charges for each service to which the development charge by-law would relate, and an examination of the long-term capital and operating costs for capital infrastructure required for each service. These requirements have been met and described below.

A. AMOUNT, TYPE AND LOCATION OF DEVELOPMENT

Section III of the 2014 City-wide Development Charges Background Study provides details of the anticipated, amount, type and location of development, for which development charges can be imposed. Table 1 below, contained within the 2014 DC study, provides a summary of the development potential throughout the City. Over the ten-year planning period (2015-2024), the City is anticipated to grow by 4,863 new households and 2,828 employees. The planning period for Engineered Services (to 2031) will see an addition of about 8,400 household units and nearly 4,800 employees.

Table 1
Summary of Residential and Non-Residential Development Forecast

Development Forecast	2014 Estimate	General Services Planning Period 2015 - 2024		Engineered Services Planning Period 2015 - 2031	
		Growth	Total at 2024	Growth	Total at 2031
Residential					
Occupied Dwellings	34,695	4,863	39,558	8,403	43,098
Population Census <i>Population In New Dwellings</i>	80,777	9,438 12,472	90,215	17,678 21,639	98,455
Non-Residential					
Employment	46,982	2,828	49,810	4,792	51,774
Non-Residential Building Space (sq.m.)		197,600		338,428	

B. CALCULATION OF THE DEVELOPMENT CHARGES

Table 2 and 3 below summarize the total development charges recoverable share of costs included in the calculation of the charge for all city-wide services considered in the 2014 DC Background Study. The gross cost of the City's development-related capital forecast for general services amounts to \$162.29 million and provides for a wide range of infrastructure expansions. As shown in Table 2, of the \$162.29 million, approximately \$26.01 million has been identified as eligible for recovery through development charges over the 2015–2024 planning period.

For City-wide Engineered Services (Table 3), the total gross cost of the capital program amounts to \$379.46 million and about \$110.28 million of the total capital program is to be recovered from DCs over the 2015 to 2031 period. Table 2 and 3 below have been extracted from the 2014 DC Background Study.

Table 2
Summary of DC Eligible Capital Costs – City-wide General Services

Service	Gross Cost (\$000)	DC Recoverable 2015-2024 (\$000)
Library Services	\$12,043.3	\$2,984.4
Fire Services	\$9,018.0	\$3,226.1
Police Services	\$2,150.0	\$4.1
Recreation	\$40,500.0	\$7,990.6
Parks	\$10,880.0	\$4,326.1
Public Works	\$16,497.2	\$1,661.1
Parking	\$30,000.0	\$2,522.2
Transit	\$30,464.2	\$1,916.2
General Government	\$741.8	\$475.3
Affordable Housing	\$10,000.0	\$900.0
Total – 10-Year General Services	\$162,294.5	\$26,006.0

Table 3
Summary of DC Eligible Capital Costs - City-wide Engineered Services

Service	Gross Cost (\$000)	DC Recoverable 2015-2031 (\$000)
Roads and Related Servicing	\$370,830.5	\$101,649.3
Sewage Treatment	\$8,631.6	\$8,631.6
Total – Engineered Services	\$379,462.1	\$110,280.9

It should be noted that no change to the City's development-related capital program would result from the implementation of the proposed amendment. Therefore, based on the development related capital program, Tables 4 and 5 below summarize the schedule of development charges as calculated and contained in the 2014 DC Background Study for residential and non-residential services respectively. Furthermore, the current 2018 DC rates, as illustrated in Table 6, are different from those shown in the 2014 Study as the City's development charges have been adjusted annually in accordance with the Statistics Canada Quarterly Construction Price Statistics.

Table 4
Residential Development Charges - Summary of Calculated City-wide Rates

Service	Residential Charge By Unit Type (1)		
	Residential A Singles & Semis	Residential B Other Multiples	Residential C Apartments
General Government	\$95	\$75	\$55
Library Services	\$775	\$616	\$451
Fire Services	\$646	\$513	\$376
Police Services	\$1	\$1	\$0
Recreation	\$1,998	\$1,587	\$1,163
Parks	\$1,124	\$893	\$654
Public Works	\$342	\$272	\$199
Parking	\$446	\$354	\$260
Transit Services	\$350	\$278	\$204
Affordable Housing	\$208	\$166	\$121
Subtotal General Services	\$5,985	\$4,755	\$3,483
Roads And Related	\$13,580	\$10,788	\$7,904
Sewage Treatment	\$935	\$743	\$544
Subtotal Engineered Services	\$14,515	\$11,531	\$8,448
TOTAL CHARGE PER UNIT	\$20,500	\$16,286	\$11,931

Table 5
Non-Residential Development Charges - Summary of Calculated City-wide Rates

Service	Non-Residential
	Charge per Square Metre
General Government	\$0.52
Library Services	\$0.00
Fire Services	\$3.51
Police Services	\$0.01
Recreation	\$0.00
Parks	\$0.00
Public Works	\$1.86
Parking	\$2.44
Transit Services	\$1.91
Affordable Housing	\$0.00
Subtotal General Services	\$10.25
Roads And Related	\$66.46
Sewage Treatment	\$4.62
Subtotal Engineered Services	\$71.08
TOTAL CHARGE PER SQUARE METRE	\$81.33

Table 6
City-wide Development Charges (2018)

	Single and Semi-Detached	Other Multiples (more than 2)	Apartments	Non-Residential
City-Wide Total	\$22,183	\$17,624	\$12,910	\$88.02m ²

No recalculation of the City's development charges is required to implement the proposed amendment, as neither the development forecast nor the capital program is proposed to be changed. The one proposed amendment will result in lower development charges for some land uses. The removal of the industrial exemption for all areas outside the Cleantech Commons land will result in industrial development being subject to development charges.

C. LONG-TERM CAPITAL AND OPERATING COSTS

As identified in the 2014 DC Study, the City's net operating costs are estimated to increase by \$4.39 million (by 2024). Increases in net operating costs will be experienced as new facilities and equipment are added.

As no change to the City's development-related capital program would result from the implementation of the proposed amendments, the effect of the amendments on the City's long term operating costs is anticipated to be nil. The first amendment would result in the exemption of residential apartment developments of a minimum 15 apartment units and mixed-use developments with a minimum of 15 apartment units and a minimum of 1,000 square meters of commercial floor space. The second amendment would result in the removal of the exemption of industrial land use development charges from the current by-laws. Implementing the proposed amendments may result in lower development charge collections and the foregone revenue will need to be offset from other non-development charge revenues, largely property taxes and utility rates.

D. AMENDMENTS WILL IMPACT DC REVENUE

As per the City's Staff Report, approximately 1,080 units will meet the minimum unit requirements (15 apartment units). The result will be \$13.5 million in exemptions over a 25 year period, plus exemptions for developments that meet the minimum mixed-use development (non-residential portion) size of 1,000 square metres of commercial space. However, it is unlikely that the City will reach the target of 70 plus units per year as historically it has averaged below 20. Annually this development would generate an additional \$150,000 to \$300,000 in tax revenue each year. (City of Peterborough, 2017)

According to the Staff Report, the City has had an annual average of less than 20 new apartment units. For the purpose of the analysis, we have assumed the proposed exemption will result in additional apartment construction, equal to 30 to 40 units per year. Based on 40 apartment units a year, development charge revenue loss will be \$500,000 a year or \$1 million over the remaining two-years of the current development charge by-law.

As per the City's Staff Report, on average, the City has been selling six acres (2.4 hectares) of industrial land per year. With a floor area ratio of 23 per cent, this equates to approximately 6,000 square metres in building area, which will result in approximately \$500,000 per year, in new development charge revenue.

If both proposed amendments are implemented, it is estimated that the net development charge revenue impacts to the City will be nil, as the revenue loss arising from the apartment exemption will be offset by the partial removal of the industrial exemption.

III PROPOSED BY-LAW AMENDMENT

Section 3 in the City's current By-Law 14-134 and 14-135, deal with "Lands Affected" to which the by-laws relate. Sub-section (a) provides for development charges to be imposed uniformly against all lands within the City.

Under Section 20 Subsections (a-f) for exemptions from payment of development charges for:

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;
- (c) Trent University or Sir Sandford Fleming College;
- (d) a farm building;
- (e) lands, buildings or structures located within the Commercial Core Sub-Area and the Waterfront Commercial Sub-Area of the Central Area, as depicted on Schedule J of the Official Plan of the City;
- (f) the redevelopment of any building or structure, which is located within the Central Area, as depicted on Schedule J of the Official Plan of the City, and which exists as of January 1, 2005.

The proposed amendments to the by-laws would add the following exemptions to the above list of exemptions:

- (g) creating a minimum of fifteen apartment dwelling units, which is located within the Central Area, as depicted in the Official Plan of the City;
- (h) mixed-use development located in the Central Area, as depicted in the Official Plan of the City, that contains a minimum of 15 apartment units and a minimum of 1,000 square metres of commercial gross floor area will be exempt from the payment of development charges based on the following rules:
 - i. The first 15 apartment units and the first 1,000 square meters of commercial gross floor area will be exempt;
 - ii. Each additional apartment unit, beyond the first 15 units is eligible for exemption; and

- iii. Each additional 67 square meters of commercial gross floor area beyond the initial 1,000 square meters must be matched with a residential unit to be eligible for exemption.

To ensure clarity of the by-laws, a definition for apartment buildings is proposed to be added in the Definition Sections:

“apartment building” means a residential building or the residential portion of a mixed use building or structure, consisting of more than 3 dwelling units, which dwelling units have a common entrance to grade.

“mixed use development or structure” means a building or structure containing a residential and nonresidential use other than a home occupation;

Additionally, Section 17. (b) of the by-laws would be amended to read:

- (b) Development charges in respect of industrial uses of lands, buildings or structures shall not be payable during the term of this By-law within the Cleantech Commons land.

The following definitions are provided for reference purposes:

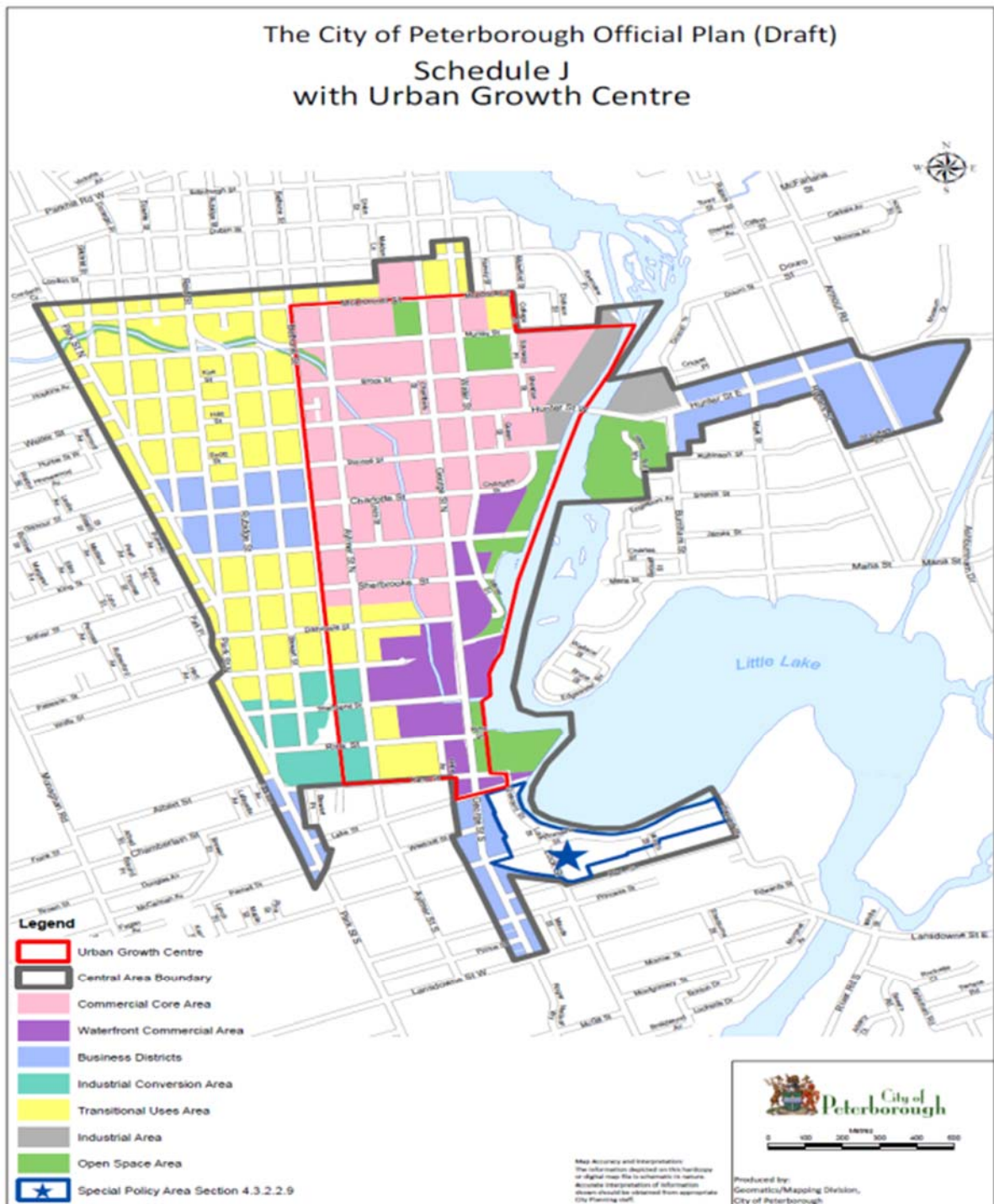
“Residential Use” development as defined in the by-law shall mean land, buildings, or structure or portions thereof used, designed or intended to be used as living accommodation for one or more individuals.

“Commercial Use” development as defined in the by-law shall mean lands, buildings, or structures or portions thereof used or designed or intended to be used for a purpose which is classified as Group A (restaurant and licensed beverage establishment only, Group C (hotel and motel only), Group D or Group E, major occupancy, pursuant to the Ontario Building Code.

“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, major occupancy, pursuant to the Ontario Building Code;

A map of the Central Area, Schedule J of the Official Plan, is illustrated in Figure 1 below for reference purposes.

Figure 1



IV PROCESS TO AMEND THE EXISTING BY-LAW

The DC Act allows a municipality to amend an existing development charge by-law. Section 19 of the DC Act sets out the requirements related to this procedure:

19. (1) Sections 10 to 18 apply, with necessary modifications, to an amendment to a development charges by-law other than an amendment by, or pursuant to an order of, the Ontario Municipal Board.

19. (2) In an appeal of an amendment to a development charges by-law, the Ontario Municipal Board may exercise its powers only in relation to the amendment.

Further to Section 19(1), the requirements of Sections 10 to 18 of the DC Act are summarized as follows:

- s.10 complete a development charges background study;
- s.11 development charges by-law [amendment] must be passed within one year of the completion of the background study;
- s.12 hold at least one public meeting prior to passage of by-law [amendment] (the background study must be available at least sixty days prior to the by-law passage);
- s.13 must give notice of passage of by-law [amendment] within 20 days of the by-law being passed. The notice must identify the last day for appealing the by-law;
- s.14 anyone may appeal the by-law [amendment] to the Ontario Municipal Board (OMB);
- s.15 outlines the duties of the Clerk if an appeal is received;
- s.16 outlines role and powers of the OMB if an appeal is received;
- s.17 effective date of OMB repeals and amendments is the day the by-law [amendment] came into force; and
- s.18 outlines rules governing the giving of refunds under an OMB order.

In simple terms, to amend a development charges by-law a municipality must go through the same public process associated with enacting a development charges by-

law. It needs to complete a background study outlining the purpose and rationale for the amendment. This report serves as the background study required under s.10 of the DC Act.

A municipality also has to hold a public meeting on the amendment, having provided three weeks' notice of the meeting, and has to have made the background study available for sixty days prior to the passage of the by-law.

Section 19(2) of the DC Act is important because it allows for an amendment to an existing by-law to be passed without exposing the unaltered portions of the by-law to appeal. When amending a development charges by-law, only the sections of the by-law amended or added are subject to appeal and consideration by the OMB.

A. CITY HAS MET DC ACT REQUIREMENTS

The City is proposing to hold a public meeting under s.12 of the DC Act on February 5th, 2018. Notice of the public meeting will be published in a newspaper of general circulation three weeks prior to the meeting. This study together with the draft by-law amendment, were made available prior to the public meeting.

It is our opinion that all DC Act requirements for passing the proposed amendment have been met. Therefore, should no objections to the proposed amendment be received before or at the public meeting, Council could consider passing the amendment after the public meeting.

APPENDIX A: DRAFT PROPOSED AMENDING BY-LAW

BY-LAW NUMBER XXX

Being a By-law of the City of Peterborough to Amend By-Law 14-134 and By-Law 14-135 with respect to City-Wide Development Charges

WHEREAS the City of Peterborough enacted By-law 14-134 and By-Law 135 pursuant to the *Development Charges Act, 1997*, S.O. 1997, c. 27 (the “Act”), which Act authorizes Council to pass by-laws for the imposition of development charges against land;

AND WHEREAS Section 19 of the *Development Charges Act* provides for amendments to a development charges by-law;

AND WHEREAS Council considered the Development Charges Amendment Background Study dated January 9, 2018, prepared by Hemson Consulting Ltd. examining a number of amendments to By-Law 14-134 and By-Law 14-135;

AND WHEREAS Notice of Public Meeting was given pursuant to Section 12(1) of the Act and in accordance with the regulations under the Act;

AND WHEREAS copies of the DC Amendment Background Study and the proposed development charge by-law amendment were made available to the public in accordance with Section 12(1) of the Act;

AND WHEREAS a Public Meeting was held on February 5, 2018 to hear comments and representations from all persons;

AND WHEREAS City Council has determined that no additional Public Meeting is required.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PETERBOROUGH ENACTS AS FOLLOWS:

Definitions

1. That the Definition Section, of By-Law 14-134 and By-Law 14-135 be amended to include the following definitions:

“apartment building” means a residential building or the residential portion of a mixed use building or structure, consisting of more than 3 dwelling units, which dwelling units have a common entrance to grade.

“mixed use development or structure” means a building or structure

containing a residential and nonresidential use other than a home occupation;

Amendment to Section 17. (b)

2. That Section 17. (b) be amended to read as follows:

(b) Development charges in respect of industrial uses of lands, buildings or structures shall not be payable during the term of this By-law within Cleantech Commons land.

Additions to Section 20 “Other Exemptions”

3. That Section 20 of By-Law 14-134 and By-Law 14-135 be amended to include the following subsections:

(g) creating a minimum of fifteen apartment dwelling units, which is located within the Central Area, as depicted in the Official Plan of the City;

(h) mixed-used development located within the Central Area, as depicted in the Official Plan of the City, that contains a minimum of 15 apartment units and a minimum of 1,000 square meters of commercial gross floor area will be exempt from the payment of development charges based on the following rules:

- i. The first 15 apartment units and the first 1,000 square metres of commercial gross floor area will be exempt;
- ii. Each additional apartment unit, beyond the first 15 units is eligible for exemption; and
- iii. Each additional 67 square meters of commercial gross floor area beyond the initial 1,000 square meters must be matched with a residential unit to be eligible for exemption.

Effective

4. (1) This By-law shall come into full force and effect on passage

(2) This By-law shall continue in force and effect for a term expiring on the date of expiry of By-law 14-134 and By-Law 14-135, being January 1, 2020, unless it is extended by statute, regulation or By-law, or repealed at an earlier date.

This By-Law shall come into force and take effect immediately after the final passing hereof.

READ A FIRST AND SECOND TIME THIS 9th day of April, 2018.

READ A THIRD AND FINAL TIME AND PASSED THIS 9th day of April, 2018.

MAYOR – Daryl Bennett

CITY CLERK – John Kennedy