

THE CORPORATION OF THE CITY OF NORTH BAY

BY-LAW NO. 2001-131

**A BY-LAW TO ESTABLISH AREA-SPECIFIC DEVELOPMENT CHARGES
RE THE JESSUP'S CREEK STORMWATER MANAGEMENT PLAN
FOR THE CORPORATION OF THE CITY OF NORTH BAY**

WHEREAS subsection 2(1) of the *Development Charges Act, 1997* c. 27 (hereinafter called "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 North Bay ("City of North Bay") has given Notice on June 30, 2001 according to section 12 of the *Development Charges Act, 1997*, of its intention to pass a by-law under Section 2 of the said Act;

AND WHEREAS the Council of the City of North Bay has heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charge proposal at a public meeting held on July 23, 2001;

AND WHEREAS the Council of the City of North Bay had before it a report entitled "City of North Bay, Development Charge Background Study Re: Jessup's Creek Subwatershed Stormwater Management Plan" dated June 13, 2001 prepared by C.N. Watson and Associates Ltd., wherein it is indicated that the development of any land within the Jessup's Creek Subwatershed will increase the need for the stormwater management service as defined herein;

AND WHEREAS the Council of the City of North Bay on September 10, 2001 approved the applicable Development Charge Background Study, as amended, inclusive of the capital forecast therein, in which certain recommendations were made relating to the establishment of a development charge policy for the City of North Bay pursuant to the *Development Charges Act, 1997*;

AND WHEREAS the proposed by-law has not been changed following the public meeting and hence no additional public meeting was required to be held, pursuant to subsection 12(3) of the DCA, 1997.

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

DEFINITIONS

1. In this by-law,

- (1) “Act” means the *Development Charges Act, 1997, c. 27*;
- (2) “Agricultural use” means a bona fide farming operation;
- (3) “Apartment dwelling” means any dwelling unit within a building containing more than four dwelling units where the units are connected by an interior corridor;
- (4) “Bedroom” means a habitable room larger than seven square metres, including a den, study, or other similar area, but does not include a living room, dining room or kitchen;
- (5) “Board of Education” means a board defined in s.s. 1(1) of the *Education Act*;
- (6) “Building Code Act” means the *Building Code Act, 1992, S.O. 1992, c.23*, as amended;
- (7) “Capital cost” means costs incurred or proposed to be incurred by the municipality or a local board thereof directly or by others on behalf of, and as authorized by, the municipality or local board,
 - (a) to acquire land or an interest in 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, R.O. 1990, c. 57*, and
 - (e) to undertake studies in connection with any of the matters referred to in clauses (a) to (d);
 - (f) to complete the development charge background study under Section 10 of the Act;
 - (g) interest on money borrowed to pay for costs in (a) to (d);

required for provision of services designated in this by-law within or outside the municipality.
- (8) “Council” means the Council of The Corporation of the City of North Bay;
- (9) “Development” means any activity or proposed activity in respect of land that requires one or more of the actions referred to in section 7 of this by-

- law 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 which do not change or intensify the use of land;
- (10) “Development charge” means a charge imposed pursuant to this By-law;
- (11)** “Dwelling unit” means a room or suite of rooms used, or designed or intended for use by, one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;
- (12) “Farm building” means that part of a bona fide farm operation encompassing barns, silos, and other ancillary development to an agricultural use, but excluding a residential use;
- (13) “Grade” means the average level of finished ground adjoining a building or structure at all exterior walls;
- (14)** “Group home” means a residential building or the residential portion of a mixed-use building containing a single housekeeping unit, supervised on a 24 hour a day basis on site by agency staff on a shift rotation basis, funded wholly or in part by any government and licensed, approved or supervised by the Province of Ontario under a general or special Act and amendments or replacements thereto, for the accommodation of not less than 3 and not more than 8 residents, exclusive of staff;
- (15) “Industrial use” means the use of land, structure, or building for the purpose of carrying out manufacturing processes, and also includes transportation, wholesale, warehousing, storage or shipping;
- (16) “Local board” means a public utility commission, public library board, local board of health, or any other board, commission, committee 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 of the municipality or any part or parts thereof;
- (17)** “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 s.51 of the *Planning Act*, or as a condition of approval under s.53 of the *Planning Act*;

- (18) "Multiple dwelling" means all dwellings other than single detached dwellings, semi-detached dwellings, and apartment dwellings;
- (19) "Municipality" means The Corporation of the City of North Bay;
- (20) "Non-profit housing" means housing which is or is intended to be offered primarily to persons or families of low income on a leasehold or co-operative basis and which is owned or operated by i) a non-profit corporation being a corporation, no part of the income of which is payable to or otherwise available for the personal benefit of a member or shareholder thereof; or ii) a non-profit housing co-operative having the same meaning as in the *Co-operative Corporations Act*, R.S.O. 1990, c.C.35, as amended;
- (21) "Non-residential uses" means a building or structure used for other than a residential use;
- (22) "Official Plan" means the Official Plan of the City of North Bay and any amendments thereto;
- (23) "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;
- (24) "Planning Act" means the *Planning Act, 1990*, R.S.O. 1990, c.P.13, as amended;
- (25) "Regulation" means any regulation made pursuant to the Act;
- (26) "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;
- (27) "Semi-detached dwelling" means a building divided vertically into two dwelling units each of which has a separate entrance and access to grade;
- (28) "Service" means the service set out in Schedule "A" to this By-law;
- (29) "Single detached dwelling" means a completely detached building containing only one dwelling unit.

- (30) "Gross floor area" means the total floor area measured between the outside of exterior walls, or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls.

CALCULATION OF DEVELOPMENT CHARGES

2. (1) Subject to the provisions of this By-law, development charges against land in that portion of the municipality described in Schedule "C"; shall be imposed, calculated and collected in accordance with the base rates set out in Schedule "B", which relate to the service set out in Schedule "A".
- (2) 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 redevelopment, or a residential portion of a mixed-use development or redevelopment, the sum of the product of the number of dwelling units of each type multiplied by the corresponding total amount for such dwelling unit type, as set out in Schedule "B";
 - (b) in the case of non-residential development or redevelopment, or a non-residential portion of a mixed-use development or redevelopment, the development charge shall be the gross floor area of such area multiplied by the corresponding total dollar amount per square metre of gross floor area, as set out in Schedule "B".
- (3) 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 service referenced in Schedule "A".

City-wide Development Charge By-law

- (4) The charges imposed in this by-law are in addition to those required under the City-wide By-law No. 1999-156 and any other development charge by-laws, which the City may pass.

PHASE-IN OF DEVELOPMENT CHARGES

3. The development charges imposed pursuant to this by-law are payable in full, subject to the exemptions herein, from the effective date of this by-law and are not phased in.

APPLICABLE LANDS

4. **(1)** Subject to Sections 5 and 6, this by-law applies to all lands described in Schedule "C" 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.

- (2) This by-law shall not apply to land that is owned by and used for the purposes of:
 - (a) a board of education;
 - (b) any municipality or local board thereof;
 - (c) a place of worship exempt under s.3 of the *Assessment Act*;
 - (d) universities and colleges exempt under s.3 of the *Assessment Act*;
 - (e) a public hospital under the *Public Hospitals Act*;
 - (f) non-profit housing and group homes;
 - (g) industrial uses.

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RULES WITH RESPECT TO EXEMPTIONS FOR INTENSIFICATION OF EXISTING HOUSING

5. (1) Notwithstanding Section 4 above, no development charge shall be imposed with respect to developments or portions of developments as follows:
 - (a) the enlargement of an existing residential dwelling unit;
 - (b) 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;

- (c) 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 existing dwelling unit already in the building;
 - (d) the creation of apartment dwellings having a gross floor area not greater than 37 square metres.
- (2) Notwithstanding subsection 5(1)(b), development charges shall be calculated and collected in accordance with Schedule "B" 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.
- (3) Notwithstanding subsection 5(1)(c), development charges shall be calculated and collected in accordance with Schedules "B" where the additional dwelling unit has a residential gross floor area greater than,
- (a) in the case of semi-detached house or multiple dwelling, the gross floor area of the smallest existing dwelling unit, and
 - (b) in the case of any other residential building, the residential gross floor area of the smallest existing dwelling unit.

DEVELOPMENT CHARGES IMPOSED

6. (1) Subject to subsection (2), development charges shall be calculated and collected in accordance with the provisions of this by-law 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*, R.S.O. 1990, c.P. 13;
 - (ii) the approval of a minor variance under Section 45 of the *Planning Act*, R.S.O. 1990, c.P.13;
 - (iii) a conveyance of land to which a by-law passed under subsection 49(7) of the *Planning Act*, R. S.O. 1990, c.P.13 applies;
 - (iv) the approval of a plan of subdivision under Section 51 of the *Planning Act*, R.S.O. 1990, c.P. 13;
 - (v) a consent under Section 53 of the *Planning Act*, R.S.O. 1990, c.P. 13;

- (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*, in relation to a building or structure.
- (2) Subsection (1) shall not apply in respect to
- (a) 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*, R.S.O. 1990, c.P. 13;
 - (b) local services installed or paid for by the owner as a condition of approval under Section 53 of the *Planning Act*, R.S.O. 1990, c.P. 13.

LOCAL SERVICE INSTALLATION

7. Nothing in this by-law prevents Council from requiring, as a condition of an agreement under Section 41, 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 or site plan control agreement relates, as Council may require.

MULTIPLE CHARGES

8. (1) Where two or more of the actions described in subsection 7(1) are required before land to which a development charge applies can be developed, both development charges 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 subsection 7(1) occur at different times, and if the subsequent action has the effect of increasing the need for municipal services as set out in Schedule "A", an additional development charge on the additional residential units and non-residential floor area, shall be calculated and collected in accordance with the provisions of this by-law.

SERVICE IN LIEU

9. (1) 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, which exceeds the total development charge payable by an owner to the municipality in respect of the development to which the agreement relates.

- (2) In any agreement under subsection 10(1), Council may also give a further credit to the owner equal to the reasonable cost of providing service in addition to, or of a greater size or capacity, than would be required under this by-law.
- (3) The credit provided for in subsection (2) shall not be charged to any development charge reserve fund.

RULES WITH RESPECT TO RE-DEVELOPMENT

10. In the case of the demolition of all or part of a residential or non-residential building or structure:
 - (1) a credit shall be allowed, provided that the land was improved by occupied structures within the five years prior to the issuance of the building permit, and the building permit has been issued for the development or redevelopment within five years from the date the demolition permit has been issued; and
 - (2) if a development or redevelopment involves the demolition of and replacement of a building or structure, or the conversion from one principal use to another, a credit shall be allowed equivalent to:
 - (a) the number of dwelling units demolished/converted multiplied by the applicable residential development charge in place at the time the development charge is payable, and/or
 - (b) the gross floor area of the building demolished/converted multiplied by the current non-residential development charge in place at the time the development charge is payable.
11. A credit can, in no case, exceed the amount of the development charge that would otherwise be payable, and no credit is available if the existing land use is exempt under this by-law.

TIMING OF CALCULATION AND PAYMENT

12. (1) Development charges shall be calculated and payable in full in money or by provision of service as may be agreed upon, or by credit granted under the Act, on the date that the first 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.

RESERVE FUNDS

13. (1) Monies received from payment of development charges under this by-law shall be maintained in a separate reserve fund.
- (2) Monies received for the payment of development charges shall be used only in accordance with the provisions of Section 35 of the Act.
- (3) 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.
- (4) Where any unpaid development charges are collected as taxes under subsection (3), the monies so collected shall be credited to the development charge reserve funds referred to in subsection (1).
- (5) The City Treasurer shall, in each year commencing in 2000 for the 1999 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. (1) Where this by-law or any development charge prescribed thereunder is amended or repealed by order of the Ontario Municipal Board, the City Treasurer 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 with interest to be calculated as follows:

- (a) Interest shall be calculated from the date on which the overpayment was collected to the date on which the refund is paid;
 - (b) The Bank of Canada interest rate in effect on the date of enactment of this by-law shall be used.
- (3) Refunds that are required to be paid under subsection (1) shall include the interest owed under this section.

BY-LAW INDEXING

15. The development charges set out in Schedules “B” and “C” to this by-law will be adjusted annually on June 1 each year, without amendment to this by-law, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, “Construction Price Statistics”. The first adjustment to the development charges will be made on June 1, 2005.

SEVERABILITY

16. 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

17. 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.

BY-LAW REGISTRATION

18. A certified copy of this by-law may be registered on title to any land to which this by-law applies.

BY-LAW ADMINISTRATION

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

SCHEDULES TO THE BY-LAW

20. The following Schedules to this by-law form an integral part of this by-law:

- Schedule A - The Designated Municipal Service
- Schedule B - Schedule of Development Charges

Schedule C - Jessup's Creek Subwatershed Area to which this By-law is Applicable

DATE BY-LAW EFFECTIVE

21. This By-law shall come into force and effect on the day following the day of its approval by Council.

SHORT TITLE


22. This by-law may be cited as the "Jessup's Creek Subwatershed Area-specific Stormwater Management By-law".

READ A FIRST TIME IN OPEN COUNCIL THIS 8TH DAY OF JULY, 2002.

READ A SECOND TIME IN OPEN COUNCIL THIS 8TH DAY OF JULY, 2002.

READ A THIRD TIME IN OPEN COUNCIL AND ENACTED AND PASSED THIS 8TH DAY OF JULY, 2002.


MAYOR


CITY CLERK

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THE CORPORATION OF THE CITY OF NORTH BAY
SCHEDULE "A"

BY-LAW NO. 2001-131
THE DESIGNATED MUNICIPAL SERVICE

- Jessups Creek Stormwater Management infrastructure inclusive of land, study, lower creek channelization, trail system and contingency required by the land illustrated in Schedule "C" (west of Booth Road)

THE CORPORATION OF THE CITY OF NORTH BAY

SCHEDULE "B"

BY-LAW NO. 2001-131

SCHEDULE OF JESSUPS CREEK SUBWATERSHED

AREA-SPECIFIC DEVELOPMENT CHARGES

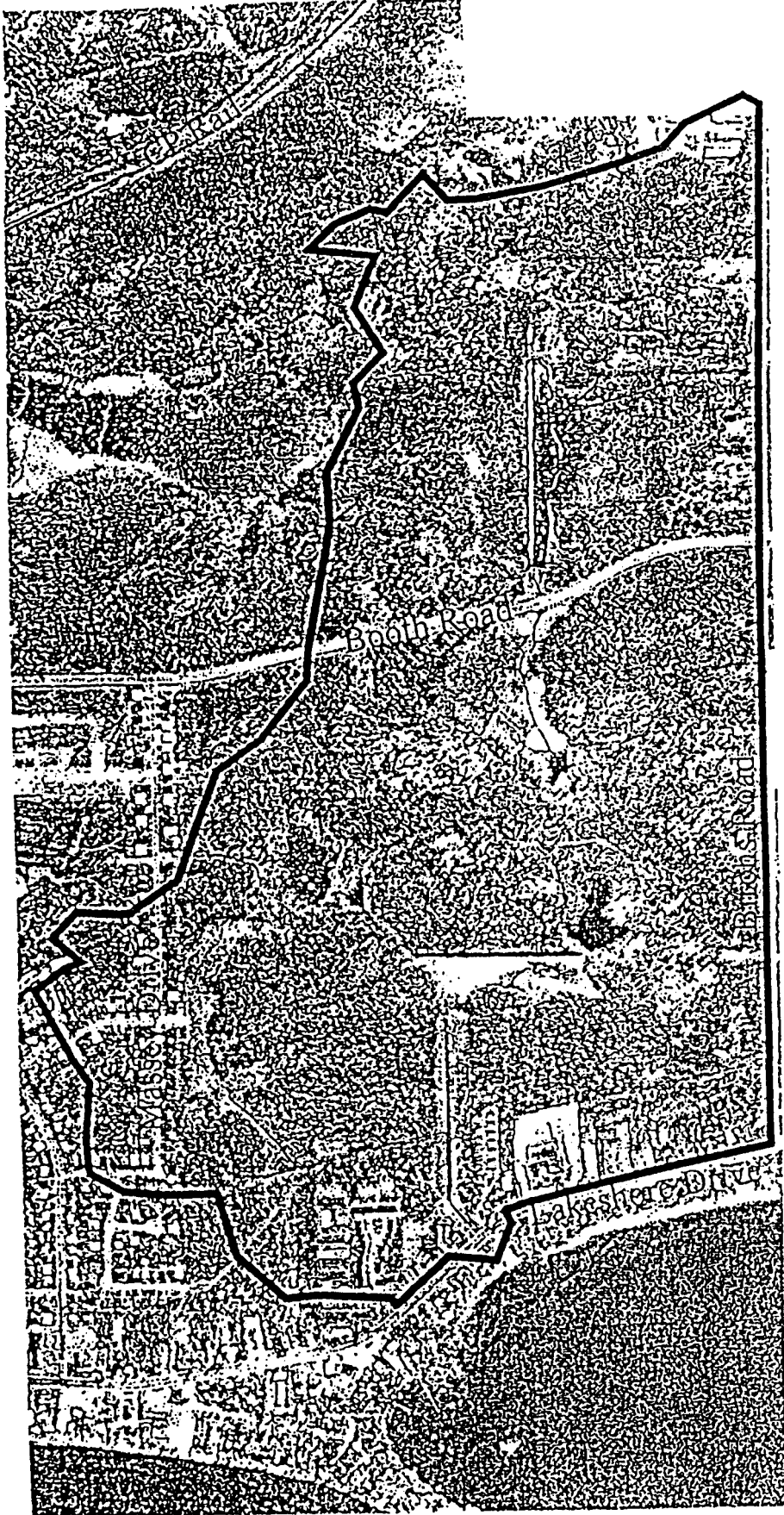
Service	Per Residential Dwelling Unit				Commercial (per s.m. of gross floor areal
	Single- detached Dwelling	Semi- detached Dwelling	Apartments	Other Multiples	
Storm Water Management	\$1,708	\$1,152	\$1,303	\$1,281	n/a

THE CORPORATION OF THE CITY OF NORTH BAY

SCHEDULE "C"

BY-LAW NO. 2001-131

JESSUP'S CREEK SUBWATERSHED AREA TO WHICH THIS BY-LAW IS APPLICABLE



— Jessups Creek
— Drainage Boundary

SCHEDULE "C"

JESSUP'S CREEK SUBWATERSHED AREA TO WHICH THIS BY-LAW IS APPLICABLE

