



## **By-Law 2004-190**

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# **To establish an area-specific development charge for the Highway 400/Molson Park Drive Interchange area, pursuant to an Area-Specific Development Charge Background Study**

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**BY-LAW NUMBER 2004-190**

**A By-law of the Corporation of the City of Barrie, to establish an area-specific development charge for the Highway 400/Molson Park Drive Interchange area, pursuant to an Area-Specific Development Charge Background Study**

**WHEREAS** Sub-section 2(1) of the *Development Charges Act, 1997*, c. D. 9 provides that the council of a municipality may pass by-laws for the imposition of a development charges against land if the development of the land would increase the need for services;

**AND WHEREAS** the Council of the Corporation of the City of Barrie held a public meeting on May 10, 2004 in accordance with section 12 of the Act;

**AND WHEREAS** the Council of the Corporation of the City of Barrie has given Notice of a Public Meeting in accordance with Section 12 of the Act;

**AND WHEREAS** the Council of the Corporation of the City of Barrie ("Barrie") received the Highway 400/Molson Park Drive Interchange area-specific development charge background study prepared by C. N. Watson and Associates Ltd. and Read, Voorhees & Associates Ltd. dated April 13, 2004, as amended, wherein the study indicated that the development of land within the specified area will increase the need for services as defined herein.

**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 charges proposal at a public meeting held on May 10, 2004;

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

**AREA-SPECIFIC DEVELOPMENT CHARGE - HIGHWAY 400/MOLSON DRIVE INTERCHANGE AREA**

1. An area-specific development charge shall be imposed on the lands set out on Schedule "A-3" of this by-law in accordance with the terms and provisions set out therein.

**DATE BY-LAW EFFECTIVE**

2. 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.

**PHASING IN OF DEVELOPMENT CHARGE**

3. This by-law does not provide for any phasing in of the development charge rates set out in Schedule A-2.

**HEADINGS**

4. The headings in the body of this by-law form no part of the by-law and shall be deemed to be inserted for convenience of reference only.

**SEVERABILITY**

5. 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 and effect.

**SCHEDULES**

6. The following Schedules to this by-law form an integral part of this by-law:  
Schedules "A", "A-1", "A-2", "A-3" and "A-4"

**BY-LAW 99-173**

7. That By-law 99-173 is hereby repealed on the date this by-law comes into effect.

**READ** a first and second time this 21st day of June, 2004.

**READ** a third time and finally passed this 21st day of June, 2004.

**THE CORPORATION OF THE CITY OF BARRIE**

**"ORIGINAL SIGNED"**

\_\_\_\_\_  
**MAYOR - R. J. HAMILTON**

**"ORIGINAL SIGNED"**

\_\_\_\_\_  
**CLERK - JOHN R. SISSON**

**SCHEDULE “A”**

**CITY OF BARRIE  
SCHEDULE OF AREA-SPECIFIC DEVELOPMENT CHARGE FOR  
MOLSON PARK DRIVE\MAPLEVIEW\HIGHWAY 400 INTERCHANGE AREA**

**DEFINITIONS**

1. For the purposes of this Schedule, the following definitions shall apply:
  - (1) “Act” means the *Development Charges Act, 1997*;
  - (2) “Building Code Act” means the Building Code Act, S.O. 1992, c.23 as amended
  - (3) “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;
    - (b) to improve land;
    - (c) to acquire, lease, construct or improve buildings and structures;
    - (d) to acquire, lease, construct or improve facilities (as per s.5(3)4)
    - (e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d);
 required for the provisions of services designated in this by-law within the municipality including interest on borrowing for those expenditures under clauses (a), (b), (c) and (d) that are growth-related;
  - (4) “Commercial Use” means lands, buildings or structures, or units within such buildings or structures, other than residential uses, to be developed within a commercial zone as defined as such within the City of Barrie Zoning By-law 85-95, or any successor thereto, notwithstanding that such use may be described in Section 6.2 permitted uses other than within the “Commercial” category together with uses listed under the Commercial Category set out in Section 7.2 or a Commercial Use set out in Section 9.2 of By-law 85-95, or any successor thereto;
  - (5) “council” means the Council of the municipality;
  - (6) “development” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size thereof, and includes redevelopment;
  - (7) “area-specific development charge” means a charge imposed with respect to eligible capital costs against the lands in the municipality set in Schedule “A-3” of this by-law;
  - (8) “eligible capital costs” are those determined under s.5(1) paragraphs 2 to 8;
  - (9) “Industrial Use” means lands, buildings or structures, or units within such buildings or structures to be developed within an Industrial Zone and described in the list of uses under the “Industrial” category set out in Section 7.2 of the City of Barrie Zoning By-law 85-95, or any successor thereto;
  - (10) “Institutional Use” means, notwithstanding any other provision of this By-law, lands, buildings or structures to be developed within an institutional zone as defined as such with the City of Barrie’s zoning by-law 85-95 , or any successor thereto, or uses defined as institutional uses within the aforesaid zoning by-law located in other zones;
  - (11) “municipality” means The Corporation of the City of Barrie
  - (12) “net capital cost” means the capital cost, less capital grants, subsidies and other contributions made to the municipality or that the Council of the municipality anticipates will be made, in respect to the capital cost;

- (13) “net hectare” means the area of land in hectares net of all lands conveyed or to be conveyed into public ownership pursuant to Sections 42, 51 and 53 of the *Planning Act* and including all lands conveyed or to be conveyed to Barrie or any local board thereof, a board of education as defined by subsection 1(1) of the *Education Act*, R.S.O. 1990,c.E.2, the Ministry of Transportation for the construction of provincial highways, or the land or any use of or right therein is being acquired for the purpose of an electricity distribution line or electricity transmission line within the meaning of Part VI of the *Ontario Energy Board Act, 1998*;
- (14) “non-residential use” means a building or structure used for other than a residential use;
- (15) “official plan” means the Official Plan of the City of Barrie and any amendments thereto;
- (16) “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 this area-specific development charge is imposed;
- (17) “Planning Act” means the Planning Act, R.S.O. 1990, c.P.13 as amended;
- (18) “regulation” means any regulation made pursuant to the Act
- (19) “residential, low density” means lands zoned one-family detached dwelling first density, one-family detached dwelling second density, one-family detached dwelling third density, one-family detached dwelling fourth density, multiple-family dwelling first density, and residential holding;
- (20) “residential medium density” means multiple-family dwelling second density
- (21) “residential high density” means Apartment Dwelling First Density (RA1) and Apartment Dwelling Second Density (RA2)
- (22) “residential uses” include low density, medium density and high density residential uses.

#### **SCHEDULES TO SCHEDULE "A"**

2. The following Schedules to Schedule “A” form an integral part of this by-law;
- |                  |   |
|------------------|---|
| Schedule “A-1” - | Designated Municipal Services                 |
| Schedule “A-2”-  | Schedule of area-specific development charges |
| Schedule “A-3”-  | By-law area                                   |
| Schedule “A-4” - | schedule of exempt lands                      |

#### **SCHEDULE OF AREA-SPECIFIC DEVELOPMENT CHARGES**

3. The area-specific development charge imposed by this by-law shall apply to the by-law area set out in Schedule “A-3” in accordance with the rates set out in Schedule “A-2” which relate to the services set out in Schedule “A-1”

#### **APPLICABLE LANDS**

4. (1) Subject to subsection (2), this Schedule applies to all the lands, buildings and structures as shown on the map attached to this Schedule as Schedule “A-3”
- (2) Schedule “A-3” shall not apply to the following lands:
- the lands set out in Schedule “A-4”,
  - lands owned by the City of Barrie as of April 22 1996, or thereafter, unless such lands are rezoned to permit additional commercial, institutional or residential uses after the date of passage of this by-law, or
  - a board of education as defined by subsection 1(1) of the *Education Act*, R.S.O. 1990,c.E.2:

5. An area-specific development charge shall apply to, and shall be calculated and collected in accordance with the provisions of this by-law on land to be developed for non-residential and residential use, where:
- (a) 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 50(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, R.S.O. 1990, c.C.26; or
    - (vii) the issuing of a permit under the Building Code Act, as amended in relation to a building or structure.

#### **MULTIPLE CHARGES**

6. (1) Where two or more of the actions described in Section 5(a) are required before land to which this area-specific development charge applies can be developed, only one area-specific development charge shall be calculated and collected in accordance with the provisions of Schedule "A-2".

#### **TIMING OF CALCULATIONS AND PAYMENT**

7. (1) The area-specific development charge for each development shall be calculated and payable on the earlier of the date a building permit is issued in relation to a building or structure on the land or with respect to an approval of a plan of subdivision under section 51 of the *Planning Act* R.S.O. 1990, c. P-13, immediately upon entering into a subdivision agreement.
- (2) Where the area-specific development charge applies to land in relation to which a building permit is required, the building permit shall not be issued until the area-specific development charge has been paid in full.
- (3) Notwithstanding subsection (1) and (2), an owner may enter into an agreement with the municipality to provide for the payment in full or in part of an area-specific development charge before building permit issuance.

#### **RESERVE FUNDS**

8. (1) Monies received from payment of a area-specific development charge shall be maintained in a separate reserve fund, and shall be used only for the services identified in this By-law together with the costs of the development charge background studies required for this By-law and By-law 99-173.
- (2) The amounts contained in the reserve fund established under this section shall be invested in accordance with subsection 163(2) of the Municipal Act. Any income received from investment of the area-specific development charge reserve fund shall be credited to the area-specific development charge reserve fund or funds in relation to which the investment income applies.
- (3) Where any area-specific 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 area-specific development charges are collected as taxes under subsection (3), the monies so collected shall be credited to the area-specific development charge reserve fund referred to in subsection (1).
- (5) The treasurer of the Municipality shall, in each year on a date established by Council, furnish to Council a statement in respect of the reserve fund established hereunder for the prior year which statement shall contain the prescribed information.

**BY-LAW AMENDMENT OR REPEAL**

9. (1) Where this Schedule or any area-specific development charge prescribed hereunder is amended or repealed by 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 and make such payment in accordance with the provisions of the Act.
- (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 refund shall include the interest owed under this section;
  - (c) Interest shall be calculated at the Bank of Canada rate in force on the day the by-law comes into force.
- (3) That this by-law shall be deemed to be repealed upon collection of development charges in the amount of the following:
  - (a) \$990,050.00; and
  - (b) total development charges background study costs;

**SCHEDULE A-1 - DESIGNATED MUNICIPAL SERVICES**

- A** Removal and replacement of the existing overpass structure with a structure of sufficient width to accommodate Highway 400 traffic both during and after construction and of a sufficient space to allow for a 9-lane cross-section for Molson Park Drive.
- B** Reconstruction of Molson Park Drive to an urban six-lane cross-section plus turning lanes including the installation of illumination between Barrie View Drive and the Tourist Information Center entrance.
- C** Reconstruction of Highway 400 and the associated ramps as required to accommodate construction staging and a grade revision.
- D** Signalization of the two ramp terminal intersections with Molson Park Drive including interconnection with the existing traffic signals between Bryne Drive and Bayview Drive; and
- E** Construction of sidewalk along Molson park Drive, on the south side between Barrie View Drive and the Tourist Information Center entrance and on the north side between the easterly ramp terminal intersection and Barrie View Drive

## SCHEDULE A-2

**Proposed Development Charge per Acre:**

Land Use	Rezoning Required	Development Charge (\$)
Commercial Use(s)	yes	15,000
Commercial Uses	no	1,500
Industrial Uses	no	300
Institutional Use(s)	yes	5,000
Institutional Uses	no	1,500
Residential - low density	yes	3,000
Residential - medium density	yes	5,000
Residential - high density	yes	10,000
Environmental Protection	no	no

**Notes to Table:**

- (a) Where no rezoning is required, and the proposed development represents less than 15% of the coverage of the lands, the development charge shall be calculated as 50% of the full development charge. The balance of the charge shall be eligible upon further development of the property which in total exceeds 15% lot coverage;
- (b) (i) Where development on Industrially zoned lands is of a mixed commercial/non-commercial nature, the development charge eligible shall be proportional to the proportion that commercial uses bear to the total development with respect to lot coverage, common areas, and parking requirements to be provisionally determined at time of issuance of building permit or earlier trigger for charge subject to note (b) (ii) below;
- (ii) Where at time of approval for occupancy, it is determined that the mix of commercial/non-commercial uses within a subject property differs from that anticipated at the time of issuance of a building permit or earlier trigger for payment, the development charge eligible shall be recalculated and the owner of such lands shall pay further development charge or receive a refund depending on the difference between the initial calculation made pursuant to note (b) (i) above.
- (c) A rezoning to permit commercial or institutional use(s) includes the removal of a holding provision which would otherwise preclude such use(s).



## SCHEDULE A-4

- FIRSTLY:** Lots 1, 2, 10, 11, 12, 13, 14, 15, 16, 17, 28, 29, 30, Plan 51M-401
- SECONDLY:** Lot 34, Plan 51M-401
- THIRDLY:** Lots 13, 14, 15, 16, 19, 20, 21, 26, 27, 28, 29, 30, Plan 51M-446
- FOURTHLY:** Part of the Northeast quarter of Lot 6, Concession 11, formerly Township of Innisfil, now City of Barrie, designated as Part 1 on Plan 51R-26526
- FIFTHLY:** Parcel 7-7, Section 51-INN-11, being Part of the north halves of Lots 7 and 8, Concession 11, formerly Township of Innisfil, now City of Barrie, County of Simcoe and designated as Part 9 on Reference Plan 51R-15652
- All the units and common elements in Simcoe County Condominium Corporation Number 106 together with their appurtenant common interests, City of Barrie, County of Simcoe
- SIXTHLY:** Part of Parcel 7-2-2, Section 51-INN-11, being part of Lots 7 and 8, Concession 11, Geographic Township of Innisfil, now City of Barrie, County of Simcoe and designated as Part 1 on Reference Plan 51R-21787
- All the units and common elements in Simcoe County Condominium Corporation Number 154 together with their appurtenant common interests, City of Barrie, County of Simcoe
- SEVENTHLY:** Parcel 7-30, Section 51-INN-11, being Part of Lot 8, Concession 11, designated as Parts 1 and 3 on Reference Plan 51R-19895, City of Barrie, County of Simcoe
- EIGHTHLY:** All lands within the by-law area owned by the Corporation of the City of Barrie as of April 22, 1996 or thereafter subject to section 4(2)(b) of Schedule "A."
- NINTHLY:** All lands within the by-law area which have paid the development charge in full pursuant to this By-law or By-law 99-173, save and except where additional uses are added to such lands through a rezoning an additional development charge shall be payable being the difference between the amount set out in Schedule A-2 and the previous development charge paid pursuant to this By-law or By-law 99-173.