

THE CORPORATION OF THE TOWN OF CALEDON
BY-LAW NUMBER 2009-092

Being a By-law to Impose and Provide for
the Payment of Development Charges for
Storm Water Management Ponds in
the Bolton South Hill Area

WHEREAS Subsection 2(1) of the Development Charges Act, 1997 provides that the council of a municipality may by by-law impose development charges against land to pay for increased capital expenditures required because of the increased need for services arising from development in the area to which the by-law applies;

AND WHEREAS, at the direction of the Council of The Corporation of the Town of Caledon, Watson & Associates Economists Ltd. has prepared a development charge background study entitled "Town of Caledon 2009 Development Charge Background Study (Inclusive of Background Studies and Proposed By-laws for Bolton Area-Specific Charges for Storm Water Management and Related Purposes)" dated June 1, 2009;

AND WHEREAS extracts from the May 15, 2009 draft of the Town of Caledon 2009 Development Charge Background Study were reviewed with representatives of the development community at a meeting held on May 20, 2009;

AND WHEREAS notice of a public meeting was given during the week of May 23, 2009 as required by Paragraph 12(1)(b) of the Development Charges Act, 1997 and in accordance with Ontario Regulation 82/98;

AND WHEREAS the Council of The Corporation of the Town of Caledon made the Town of Caledon 2009 Development Charge Background Study and a draft version of this by-law available to the public as of June 1, 2009 as required by Paragraph 12(1)(c) of the Development Charges Act, 1997;

AND WHEREAS the Council of The Corporation of the Town of Caledon held a public meeting on June 17, 2009 at which all persons in attendance were provided with an opportunity to make representations relating to the draft version of this by-law as required by Subsection 12(2) of the Development Charges Act, 1997;

AND WHEREAS, by resolution passed on July 7, 2009, the Council of The Corporation of the Town of Caledon:

- (a) adopted the Town of Caledon 2009 Development Charge Background Study, and;
- (b) determined that it was not necessary to hold any further public meetings with respect to this by-law;

NOW THEREFORE the Council of The Corporation of the Town of Caledon enacts as follows:

Definitions

1. (1) In this by-law:
 - (a) "accessory", where used to describe a building, structure or use, means a building, structure or use that is subordinate, incidental and exclusively devoted to a main building, structure or use and that is located on the same lot as such main building, structure or use;
 - (b) "Act" means the Development Charges Act, 1997, S.O. 1997, c.27;

- (c) "agricultural building or structure" means a building or structure that is used for the purposes of or in conjunction with animal husbandry, field crops, fruit farming, tree farming, sod farming, market gardening, horticulture or any other use that is customarily associated with a bona fide farming operation, but excludes buildings or structures used for the retail sale of agricultural products or products produced from agricultural products;
- (d) "apartment dwelling unit" means a dwelling unit in a building containing three or more dwelling units that share a common external access to the outside through a common vestibule or a common corridor system or a combination thereof;
- (e) "Bolton South Hill Area" means that part of the Town of Caledon that is outlined on Schedule C-2 of the Town of Caledon Official Plan;
- (f) "building" means a structure consisting of any combination of walls, roof and floor or any structural system serving the function thereof, including all associated plumbing, works, fixtures and service systems;
- (g) "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 or usability thereof, and includes redevelopment;
- (h) "development charge" means a development charge imposed pursuant to this by-law;
- (i) "duplex dwelling unit" means a dwelling unit in a building divided horizontally into two separate dwelling units, each such dwelling unit having an independent entrance either directly from outside the building or through a common vestibule;
- (j) "dwelling unit" means a room or rooms which function as a housekeeping unit used or intended to be used as a domicile by one or more persons, in which a kitchen, living quarters and sanitary facilities are provided for the exclusive use of the residents and with a private entrance from outside the building or from a common hallway or stairway;
- (k) "garden suite" means a one-storey, free standing, temporary and portable residential structure, with one dwelling unit containing kitchen and bathroom facilities, which is designed for year round occupancy and is accessory to a single-detached dwelling, but excludes a trailer;
- (l) "grade" means the average level of finished ground adjoining a building or structure at all of its exterior walls;
- (m) "institutional use" means the use of land, buildings or structures for a public or non-profit purpose, including a religious, charitable, educational, health or welfare purpose, and, without limiting the generality of the foregoing, may include such uses as schools, hospitals, places of worship, recreation facilities, community centres and government buildings;
- (n) "local board" means a local board as defined in the Municipal Act, 2001;
- (o) "lot" means a parcel of land that is capable of being legally conveyed in accordance with Section 50 of the Planning Act or is described in accordance with a registered plan of condominium;

- (p) "mixed use" means land, buildings or structures used or designed or intended to be used for a combination of residential uses and non-residential uses;
- (q) "multiple dwelling unit" means a dwelling unit other than a dwelling unit in a single-detached dwelling, a semi-detached dwelling, a duplex dwelling, an apartment building or a garden suite;
- (r) "non-residential" means used or designed or intended to be used other than for residential purposes;
- (s) "protracted", in relation to a temporary building or structure, means the existence of such temporary building or structure for a continuous period of more than eight months;
- (t) "redevelopment" means the construction, erection or placing of one or more buildings or structures on land where all or part of a building or structure on such land has been or is to be demolished, or changing the use of a building or structure from residential to mixed use or non-residential or from non-residential to residential or mixed use or from mixed use to residential or non-residential;
- (u) "Regulation" means Ontario Regulation 82/98, as amended;
- (v) "residential" means used or designed or intended to be used as a home or residence of one or more persons;
- (w) "semi-detached dwelling unit" means a dwelling unit in a building divided vertically by a common wall both above and below grade into two separate dwelling units, each such dwelling unit having an independent entrance either directly from outside the building or through a common vestibule;
- (x) "service" means a service described in this by-law or in an agreement made under Section 44 of the Act;
- (y) "single-detached dwelling unit" means a dwelling unit in a building containing only one dwelling unit;
- (z) "structure" means anything constructed, the use of which requires location on or in the ground or attached to something having location on or in the ground;
- (aa) "temporary building or structure" means a building or structure that is constructed, erected or placed on land for a continuous period of not more than eight months, or an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof for a continuous period of not more than eight months;
- (bb) "total floor area" means the total of the areas of the floors in a building or structure, whether at, above or below grade, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating two uses, or from the outside edge of a floor where the outside edge of the floor does not meet an exterior or common wall, and:
 - (i) includes space occupied by interior walls and partitions;
 - (ii) includes, below grade, only the floor area that is used for commercial or industrial purposes;
 - (iii) includes the floor area of a mezzanine;
 - (iv) where a building or structure does not have any walls, the total floor area shall be the total area of the land directly

beneath the roof of the building or structure and/or the total area of the floors in the building or structure;

(v) excludes any parts of the building or structure used for mechanical equipment related to the operation or maintenance of the building or structure, stairwells, elevator shafts, washrooms, and the parking and loading of vehicles; and,

(vi) excludes the area of any self contained structural shelf and rack storage facility approved by the Building Materials Evaluation Commission; and,

(cc) "Town" means The Corporation of the Town of Caledon.

(dd) "townhouse dwelling unit" means a dwelling unit in a building divided vertically both above and below grade into three or more dwelling units, each such dwelling unit having an independent entrance either directly from outside the building or through a common vestibule;

(2) All words defined in the Act or the Regulation have the same meaning in this by-law as they have in the Act or Regulation unless they are defined otherwise in this by-law.

(3) All references to the provisions of any statute or regulation or to the Ontario Building Code contained in this by-law shall also refer to the same or similar provisions in the statute or regulation or code as amended, replaced, revised or consolidated from time to time.

Affected Land

2. (1) Subject to Subsection 2 of this Section, this by-law applies to all land in the Bolton South Hill Area, whether or not such land is exempt from taxation under Section 3 of the Assessment Act.
- (2) This by-law shall not apply to land that is owned by and used for the purposes of:
- (a) a board as defined in Subsection 1(1) of the Education Act;
 - (b) a college or university that is eligible to receive funding from the government of the Province of Ontario;
 - (c) a hospital as defined in Section 1 of the Public Hospitals Act.
 - (d) the Ontario Provincial Police;
 - (e) the Town or any local board thereof;
 - (f) The Regional Municipality of Peel or any local board thereof; or,
 - (g) any other municipality or local board thereof.

Imposition of Development Charges

3. (1) Subject to Subsections 2 and 3 of this Section, development charges shall be imposed against land that is to be developed if the development requires:
- (a) the passing of a zoning by-law or of an amendment to a zoning by-law under Section 34 of the Planning Act;
 - (b) the approval of a minor variance under Section 45 of the Planning Act;
 - (c) a conveyance of land to which a by-law passed under Subsection 50(7) of the Planning Act applies;

- (d) the approval of a plan of subdivision under Section 51 of the Planning Act;
 - (e) a consent under Section 53 of the Planning Act;
 - (f) the approval of a description under Section 50 of the Condominium Act, 1998; or,
 - (g) the issuing of a building permit for the construction or erection of a building or structure.
- (2) Only one development charge shall be imposed against land to which this by-law applies even though two or more of the actions described in Subsection 1 of this Section are required for such land to be developed.
- (3) Notwithstanding Subsection 2 of this Section, if two or more of the actions described in Subsection 1 of this Section occur at different times, additional development charges shall be imposed in accordance with this by-law in respect of any additional development permitted by the subsequent action.

Description of Services

4. (1) Development charges shall be imposed in accordance with this by-law in respect of the following services:
- (a) land for storm water management ponds in the Bolton South Hill Area; and,
 - (b) construction of storm water management ponds in the Bolton South Hill Area.
- (2) The development charges applicable to a development, as determined under this by-law, shall apply without regard to the services required for or to be used by such development.

Calculation of Development Charges

5. Development charges that are to be imposed upon land in the Bolton South Hill Area that is to be developed for any purpose, including, without limiting the generality of the foregoing, residential uses, non-residential uses and/or mixed uses, shall be calculated at the rates described in Schedule A to this by-law for the areas outlined on Schedule B to this by-law.

Residential Intensification

6. (1) This by-law shall not apply with respect to any of the actions described in Subsection 1 of Section 3 of this by-law if the only effect of such action is to:
- (a) permit the enlargement of an existing dwelling unit;
 - (b) permit the creation of one or two additional dwelling units in an existing single-detached dwelling, provided that the total gross floor area of the additional dwelling unit or the additional dwelling units is not greater than the gross floor area of the existing dwelling unit in the existing single-detached dwelling;
 - (c) permit the creation of one additional dwelling unit in an existing semi-detached dwelling unit or an existing townhouse dwelling unit, provided that the gross floor area of the additional dwelling unit is not greater than the gross floor area of the existing dwelling unit in the existing semi-detached dwelling or the existing townhouse dwelling; or,

- (d) permit the creation of one additional dwelling unit in any other existing residential building, provided that the gross floor area of the additional dwelling unit is not greater than the gross floor area of the smallest existing dwelling unit in the existing residential building.
- (2) Notwithstanding any other provision of this by-law, for the purpose of Subsection 1 of this Section, "gross floor area" shall have the same meaning as in the Regulation.

Industrial Expansion

- 7. (1) Notwithstanding any other provision of this by-law, if a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge applicable to such development shall be determined as follows:
 - (a) if the gross floor area is enlarged by fifty percent or less, the amount of the development charge in respect of the enlargement shall be zero; or,
 - (b) if the gross floor area is enlarged by more than fifty percent, the amount of the development charge in respect of the enlargement shall be calculated on the amount by which the enlargement exceeds fifty percent of the gross floor area of the existing industrial building before the enlargement.
- (2) Notwithstanding any other provision of this by-law, for the purpose of Subsections 1 and 5 of this Section, "existing industrial building" and "gross floor area" shall have the same meaning as in the Regulation.
- (3) For the purpose of interpreting the definition of "existing industrial building" in the Regulation, regard shall be had for the classification of the land on which the existing industrial building is located under the Assessment Act and in particular:
 - (a) whether the land is within a tax class such that taxes on the land are payable at the industrial tax rate; and,
 - (b) whether more than fifty percent of the gross floor area of the existing industrial building has an industrial property code for assessment purposes.
- (4) For the purpose of applying Subsection 1 of this Section, the gross floor area of an existing industrial building shall be calculated as it was prior to the first enlargement of such existing industrial building for which an exemption under Subsection 1 of this Section applies.
- (5) Notwithstanding any other provision of this by-law, development charges shall not be imposed with respect to the construction or erection of a building that is accessory to, and not more than fifty percent of the gross floor area of an existing industrial building or the construction or erection of buildings that are accessory to, and, in total, not more than fifty percent of the gross floor area of an existing industrial building, provided that, prior to a building permit or building permits being issued for such building or buildings, the owner or owners of the land on which such building or buildings are to be constructed or erected enter into a written agreement with the Town which has the effect of counting the gross floor area of such building or buildings against the exemption provided for in Subsection 1 of this Section.

Redevelopment

- 8. Subject to Section 7 of this by-law, where, in conjunction with the redevelopment of land, a building on such land was demolished in whole or in part on or after November 6, 1991 or is to be demolished in whole or in part or converted from a residential use to a non-residential use or vice-versa, the development charge to

be imposed with respect to such redevelopment shall be reduced by the following amounts:

- (1) in the case of a residential building or the residential portion of a mixed use building, an amount calculated by multiplying the applicable development charge under Section 5 of this by-law by the number of dwelling units, according to the type thereof, that have been or are to be demolished or converted to a non-residential use; or,
- (2) in the case of a non-residential building or the non-residential portion of a mixed use building, an amount calculated by multiplying the applicable development charge under Section 5 of this by-law by the total floor area, according to the type thereof, that has been or is to be demolished or converted to a residential use;

provided that such amounts shall not exceed in total the amount of the development charge to otherwise be imposed with respect to the redevelopment.

Temporary Buildings or Structures

9. (1) Notwithstanding any other provision of this by-law, development charges shall not be imposed under this by-law in respect of the construction or erection of a temporary building or structure so long as its status as a temporary building or structure is maintained in accordance with the provisions of this by-law.
- (2) Upon application being made for the issuance of a building permit for the construction or erection of a temporary building or structure to which, but for Subsection 1 of this Section, development charges apply, the Town may require the owner or owners of the land on which such temporary building or structure is to be constructed or erected to enter into an agreement with the Town pursuant to Section 27 of the Act and submit security, satisfactory to the Town, to be realized upon in the event that the temporary building or structure becomes protracted and development charges thereby become payable.
- (3) In the event that a temporary building or structure becomes protracted, it shall be deemed not to be, nor ever to have been a temporary building or structure and, subject to any agreement made pursuant to Section 27 of the Act, development charges under this by-law shall become payable forthwith.

Exemptions

10. (1) Notwithstanding any other provision of this by-law, development charges shall not apply to:
 - (a) a garden suite; or,
 - (b) a non-residential agricultural building or structure;provided that a development charge, calculated in accordance with this by-law, shall be immediately payable if such garden suite or non-residential agricultural building or structure or open-sided tent is converted to a use that is not exempt under this by-law.
- (2) Notwithstanding any other provision of this by-law, the Council of the Town may, by resolution, waive the payment of development charges in whole or in part with respect to land to be developed for an institutional use.

Indexing

11. The development charges described in Schedule A to this by-law shall be adjusted without amendment to this by-law on February 1st and August 1st in each year, commencing on August 1st, 2009, in accordance with the Statistics Canada Quarterly Construction Price Statistics (catalogue number 62-007) with the base index value being that in effect on February 1, 2009.

Payment of Development Charges

12. (1) Development charges, adjusted in accordance with Section 11 of this by-law to the date of payment, shall be payable either:
- (a) prior to final approval of a plan of subdivision or a plan of condominium that includes the land that is to be developed;
 - (b) prior to a certificate being issued for a consent that includes the land that is to be developed; or,
 - (c) prior to a building permit being issued for the construction of a building or structure on the land that is to be developed;
- whichever occurs earlier.
- (2) In the alternative to payment by the means provided in Subsection 1 of this Section, the Town may, by an agreement made under Section 38 of the Act with the owner or owners of land that is to be developed, accept the provision of services in full or partial satisfaction of development charges otherwise payable by such owner or owners, provided that:
- (a) if the Town and such owner or owners cannot agree as to the reasonable cost of providing the services, the dispute shall be referred to the Council of the Town and its decision shall be final and binding; and,
 - (b) if the reasonable cost of providing the services exceeds the amount of the development charge for the service to which the work relates:
 - (i) the excess amount shall not be credited against the development charge for any other service, unless the Town has so agreed in an agreement made under Section 38 of the Act; and,
 - (ii) in no event shall the Town be required to make a cash payment to such owner or owners.
- (3) Nothing in this by-law shall prevent the Council of the Town from requiring, as a condition of any approval under the Planning Act, that the owner or owners of land install such local services as the Council of the Town may require in accordance with the policies of the Town with respect to local services.
- (4) The Town may require the owner or owners of land that is to be developed to enter into an agreement, including the provision of security for the obligations of such owner or owners under the agreement, pursuant to Section 27 of the Act providing for all or part of a development charge to be paid before or after it otherwise would be payable, and the terms of such agreement shall prevail over the provisions of this by-law.

Unpaid Development Charges

13. (1) If a development charge or any part thereof remains unpaid after it is payable, the amount unpaid shall be added to the tax roll and shall be collected in the same manner as taxes.
- (2) If any unpaid development charges are collected as taxes in accordance with Subsection 1 of this Section, the monies so collected shall be credited to the appropriate development charges reserve fund.

Phasing In

14. The development charges imposed pursuant to this by-law shall be payable in full, subject to any exemptions provided for in this by-law, from and including July 8, 2009.

Effective Date

15. This by-law shall come into force and effect on July 7, 2009.

Repeal

16. By-law No. 2004-143, as amended, shall be and is hereby repealed effective on the date that this by-law comes into force and effect.

Expiry Date

17. This by-law shall expire five years from the date that it comes into force and effect, unless it is repealed at an earlier date by a subsequent by-law.

Registration

18. A certified copy of this by-law may be registered in the by-law register in the Peel Land Registry Office and/or against the title to any land to which this by-law applies.

Severability

19. In the event that any provision of this by-law is found by a court or tribunal of competent jurisdiction to be invalid, such provision shall be deemed to be severed, and the remaining provisions of this by-law shall remain in full force and effect.

Headings

20. The headings inserted in this by-law are for convenience of reference only and shall not affect the interpretation of this by-law.


Schedule

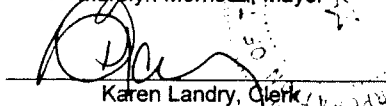
21. Schedules A and B attached to this by-law shall be deemed to be a part of this by-law.

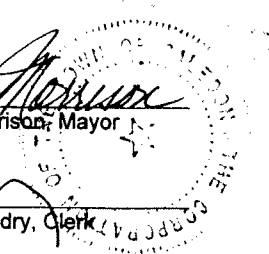
Short Title

22. This by-law may be referred to as the Bolton South Hill Area Storm Water Management Ponds Development Charges By-law.

Read three times and finally passed in Open Council, this 7th day of July, 2009


Marilyn Morrison, Mayor


Karen Landry, Clerk



**SCHEDULE A
TO BY-LAW 2009-092
TOWN OF CALEDON
BOLTON SOUTH HILL AREA CHARGE
SCHEDULE OF DEVELOPMENT CHARGES**

Services & Designated Development Charge Financing Areas	Development Charge (per net hectare)
N. Pond 1	\$10,200.42
Pond 2/3	\$62,461.39
Pond 4	\$65,971.30

