

THE CORPORATION OF THE TOWNSHIP OF McNAB/BRAESIDE

BY-LAW NUMBER 2004-15

A BY-LAW WITH RESPECT TO DEVELOPMENT CHARGES

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**WHEREAS** the Development Charges Act, 1997, permits Council to pass by-laws for the imposition of development charges if development or redevelopment of land within the municipality is for uses which would increase the need for services and any one or more of the actions set out in subsection 4. (a) of the said Development Charges Act, 1997, is required for such development or redevelopment;

**AND WHEREAS** Council had before it a background study entitled the “Development Charges Study Final Report Township of McNab/Braeside” prepared by Jp2g Consultants Inc. and dated May 2004, hereinafter called “the Study”;

**AND WHEREAS** Council has reviewed the Study and has considered the comments of the public at a public meeting duly held on May 17, 2004, to consider the enactment of a By-law under the said Development Charges Act, 1997.

**NOW THEREFORE** the Council of the Corporation of the Municipality of the Township of McNab/Braeside, enacts as follows:

1. In this By-law:

- (a) “Act” means the Development Charges Act, 1997;
- (b) “Board of Education” means a board as defined in subsection 1(1) of the Education Act;
- (c) “Capital Cost” means costs incurred or proposed to be incurred by the Municipality or a local board directly or on behalf of, and as authorized by, a municipality or local board:
  - i) Costs to acquire land or an interest in land, including a leasehold interest;
  - ii) Costs to improve land;
  - iii) Costs to acquire, lease, construct or improve buildings or structures;
  - iv) Costs to acquire, lease, construct or improve facilities including,
    - 1. rolling stock with an estimated useful life of seven years or more,
    - 2. furniture and equipment other than computer equipment, and
    - 3. materials acquired for circulation, reference or information purposes by a library board as defined in the Public Libraries Act;
  - v) Costs to undertake studies in connection with any of the matters referred to in clauses (i) through (iv);
  - vi) Costs of the development charge background study; and
  - vii) Interest on money borrowed to pay for costs described in clauses (i) through (iv).
- (d) “Commercial Use” means a use of land, building or structure for the purpose of buying or selling commodities and/or supplying services, but does not include residential, industrial or institutional uses as otherwise defined in this By-law.

- (e) "Council" means the elected Council of the Township of McNab/Braeside.
- (f) "Development" includes redevelopment.
- (g) "Development Charge" means a charge imposed against land with respect to the growth-related net capital costs under this By-law.
- (h) "Dwelling, Single Detached" means a single dwelling unit which is freestanding, separate and detached from other main buildings or main structures and includes a prefabricated single detached dwelling but does not include a mobile home.
- (i) "Dwelling Unit" means a suite of habitable rooms which:
  - i) is located in a building;
  - ii) is used or is intended to be used in common by one or more persons as a single, independent and separate housekeeping establishment;
  - iii) contains food preparation and sanitary facilities provided for the exclusive common use of the occupants thereof; and
  - iv) has a private entrance directly from outside the building or from a common hallway or stairway inside the building.
- (j) "Dwelling Unit, Apartment" means a dwelling unit located in any one of the following types of dwellings:
  - i) "Dwelling, Apartment" means the whole of a building not otherwise defined herein, which contains four (4) more dwelling units serviced by a common entrance or by an independent entrance directly from the outside in which the occupants have the right to use in common any corridors, stairs or elevators contained therein, and the yards appurtenant thereto.
  - ii) "Dwelling, Accessory" means a dwelling unit accessory to a permitted non-residential use, but shall not include an accessory single attached dwelling unit or an accessory single detached dwelling unit as otherwise defined in this By-law.
- (k) "Dwelling Unit, Single Attached" means a dwelling unit located in any one of the following types of dwellings:
  - i) "Dwelling, Duplex" means a building that is divided horizontally into two separate dwelling units each of which has an independent entrance either directly from outside or through a common vestibule; or
  - ii) "Dwelling Maisonette" means a building that is divided vertically into five or more dwelling units, each of which has independent entrances, one to a common corridor and the other directly to an outside yard area adjacent to the said dwelling unit; or
  - iii) "Dwelling, Row House" means a building that is divided vertically into three or more dwelling units, each of which has a separate and independent entrance at finished grade and separated from the adjoining unit or units by a common unpierced wall with no interior access between each dwelling unit. Townhouse shall have a corresponding meaning; or
  - iv) "Dwelling, Semi-Detached" means a building that is divided vertically into two separate dwelling units each of which has an independent entrance either directly from outside or through a common vestibule; or

- v) “Dwelling, Triplex” means a building that is divided horizontally into three separate dwelling units each of which has an independent entrance either directly from outside or through a common vestibule.
- (l) “Existing” means existing as of the date of passing of this By-law.
- (m) “Gross Floor Area (G.F.A.)” 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.
- (n) “Growth-Related Net Capital Costs” means the portion of the net capital cost of services that is reasonably attributed to the need for such net capital cost that results or will result from new development in all or a defined part of the Municipality.
- (o) “Industrial Use” means land, buildings or structures used for or in connection with,
  - i) manufacturing, producing, processing, storing, or distributing something,
  - ii) research or development in connection with manufacturing, producing or processing something,
  - iii) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, producing or processing takes place,
  - iv) office or administrative purposes, if they are,
    - 1. carried out with respect to manufacturing, producing, processing, storage or distributing something, and
    - 2. in or attached to the building or structure used for that manufacturing, producing , processing, storage or distribution.
- (p) “Institutional Use” means a use of land, building or structure for social purposes but not for commercial or industrial purposes as defined in this By-law and may include religious, charitable, fraternal, philanthropic or other similar uses.
- (q) “Local Board” means a local board as defined in Section 1 of the Municipal Affairs Act other than a board as defined in subsection 1 (1) of the Education Act.
- (r) “Mobile Home” means any dwelling that is designed to be made mobile and constructed or manufactured to be used in like manner as a single detached dwelling for the permanent accommodation of one or more persons, notwithstanding that the running gear is or may be removed, or that such dwelling is or may be fixed on a finished and permanent foundation or has become in any other manner so adapted and affixed to the land upon which it is situated that it is, or has become, an immobile and permanent structure, and includes any mobile home as defined in Section 46 (1) of the Planning Act, as amended from time to time, or any successors thereto.
- (s) “Municipality” means the Corporation of the Township of McNab/Braeside.
- (t) “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, including conveyances or payments under Sections 41, 51 and 53 of the Planning Act, as amended, in respect of the capital cost. The net capital cost also includes a 10 per cent reduction as required under Section 5.(1)8. of the Act for all services except those set out in Section 5.(5) of the Act.

- (u) "Official Plan" means the most recent Official Plan approved by the Minister of Municipal Affairs and Housing or Approval Authority, for the Township of McNab/Braeside and which is amended from time to time.
  - (v) "Owner" means the most recent 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.
  - (w) "Rate" means the interest rate established weekly by the Bank of Canada for Treasury Bills having a term of 30 days.
  - (x) "Regulation" means Ontario Regulation 82/98, as amended.
  - (y) "Residential Use" means any use of land, building or structure for the purposes of a single detached dwelling, a single attached dwelling, an apartment dwelling or a mobile home, as defined in this By-law.
  - (z) "Services" means those services, facilities, buildings and things shown on Schedule "A" to this By-law.
  - (aa) "Services in Lieu" means those services specified in an agreement made under Section 9 of this By-law.
  - (bb) "Zoning By-law" means Comprehensive Zoning By-law 99-18 of the Township of McNab/Braeside, passed under Section 34 of the Planning Act, and as amended from time to time.
2. (a) This By-law applies to all lands in the Municipality whether or not the land or use thereof whether or not the land or use thereof is exempt from taxation under the Assessment Act.
- (b) Notwithstanding Clause 2.(a) above, this By-law does not apply to the development of land that is owned by and used for the purposes of:
- i) a Board of Education;
  - ii) the Municipality or Local Board thereof; or
  - iii) the County of Renfrew or any Local Board thereof.
3. Schedules "A" and "B", attached hereto are incorporated into and form part of this By-law.
4. (a) The development charges set out in this By-law shall be imposed where the development of land for residential, commercial, industrial or institutional uses would increase the need for services and the development requires:
- (i) the passing of a zoning by-law or an amendment to a zoning by-law passed 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; or

- (vii) the issuing of a building permit under the Building Code Act, in relation to a building or structure.
  - (b) No development charge shall be imposed in respect of any action mentioned in Clauses 4.(a) (i) through (vii), if the only effect of the action is to,
    - (i) permit the enlargement of an existing dwelling unit; or
    - (ii) permit the creation of up to two additional dwelling units as prescribed in Section 2. of the Regulation (and as illustrated for information purposes on Schedule “C” to this By-law), subject to the prescribed restrictions, in prescribed classes of existing residential buildings.
  - (c) (i) No development charge shall be imposed in respect of any action mentioned in Clause 4.(a) (vii), if the only effect of the action is to permit the replacement or reconstruction of a building or structure. Notwithstanding, the building or structure to be replaced or reconstructed must have been occupied as a dwelling, in accordance with the provisions of the Zoning By-law at some point during the preceding 24 month period from the day an application for a building permit is made.
  - (ii) No development charge shall be imposed in respect of any action mentioned in Clause 4.(a) (vii), if the only effect of the action is to permit the construction of a second single detached dwelling on the property in accordance with the provisions of the Zoning By-law and where such property is subject to an agreement with the Township for the future demolition of the first (existing) single detached dwelling on the property.
  - (d) No development charge shall be imposed in respect of any action mentioned in Clauses 4.(a) (i) through (vii), if the only effect of the action is to enlarge the gross floor area of an existing industrial building by 50 per cent or less. If the gross floor area of an existing industrial building is enlarged by more than 50 per cent, the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:
    - (i) Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement; and
    - (ii) Divide the amount determined under Clause 4.(d) (i) by the amount of the enlargement.
5. The Development Charges shown on Schedule “B” attached hereto as the “General Development Charges” are hereby authorized and established and shall be imposed upon all lands within the Municipality.
6. (a) All applicable development charges imposed hereunder as adjusted from time to time in accordance with Clause 8. of this By-law, shall be paid in full on the date a building permit under the said Building Code Act is to be issued in respect of a building or structure on land to which the development charges apply.
- (b) No building permit shall be issued for any building or structure on land in respect of which the applicable Development Charges or any part thereof remains unpaid.
7. Nothing in this By-law prevents Council from requiring as a condition of approval under Section 41, 51 or 53 of the Planning Act, that the Owner install at his own expense such services as Council may require.
8. All Development Charges established in this By-law may be adjusted annually on the 31st of December in each year commencing on the 31st of December 2004, in accordance with the

prescribed index, the Statistics Canada Quarterly, Construction Price Statistics, catalogue number 62.007.

9. (a) Council may by written agreement, permit an Owner to provide at the Owner's expense, Services in Lieu of payment of all or any portion of the applicable Development Charges. Such agreement shall 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 Charges otherwise applicable to his development equal to the reasonable cost of providing the Services in Lieu.
  - (b) Council by written agreement may give a credit equal to the owner's reasonable cost of providing Services in addition to or of a greater size or capacity than would be required under this By-law.
  - (c) Any dispute as to the reasonable cost of providing the Services in Lieu or the Services mentioned in Paragraph 9(b) above, shall be referred to the Municipality's Engineer whose decision shall be final and binding on the Owner and the Municipality.
10. A certified copy of this By-law may be registered against such lands in the Municipality as Council by resolution from time to time may direct.
11. (a) The Treasurer shall create reserve funds which shall be separate from the other reserve funds of the Municipality and all payments received by the Municipality pursuant to this By-law shall be deposited into said reserve funds, which funds shall be divided into reserve fund accounts as set out in paragraph 11(b) of this By-law. Monies paid from the reserve fund accounts shall be taken only to meet growth-related net capital costs for which the Development Charges were imposed.
- (b) The Treasurer shall create separate reserve fund accounts for each of the Services identified in Schedule "A" hereto. As Development Charges are received pursuant to this By-law, the monies shall be placed in separate reserve funds for each of the Services as shown on Schedule "A" hereto.
- (c) All monies contained within the reserve funds from time to time may be invested in such securities as a Trustee may invest under the Trustee Act, R.S.O. 1990, Chapter T.23 and earnings derived from the investment of such money shall be credited to the reserve funds.
- (d) Accounts shall be kept so that it will be possible to determine therefrom the true state of each reserve fund.
12. The Treasurer of the Municipality shall, in each year on or before March 31, furnish to Council a statement in respect of the reserve fund for the prior year established hereunder containing the information required under the Regulation.
13. (a) If this By-law is amended or repealed by Council or the Ontario Municipal Board, the Treasurer shall determine within 30 days of the amendment or repeal whether any owner has overpaid in respect of the Development Charge paid hereunder and if such an overpayment has been made, the Treasurer shall calculate the amount of such overpayment.- (b) Any refund payable under this By-law shall include interest calculated from the date upon which the overpayment was collected by the Municipality to the date on which the refund is made. Such interest shall be paid at the Rate (see Clause 1.(w)) in effect from time to time from the date of enactment of this By-law as adjusted in Clause 13.(c) of this By-law.
- (c) The Bank of Canada Rate in effect on the date of enactment of this By-law shall be adjusted on the first business day of July, 2004 to the Rate established by the Bank of Canada on that day and shall be adjusted four times each year thereafter on the first business day of July, October, January and April to the Rate established by the Bank of

Canada on the day of the adjustment.

- (d) Any overpayment determined under Clause 13.(a), shall be paid to the person who made the payment by his or her last known address within 30 days of the date of the repeal of amendment of this By-law.
14. (a) The By-law shall continue in force and effect for a term of five (5) years from the date of its enactment.
- (b) From the coming into force of this By-law, all previous By-laws passed by the Township under the Development Charges Act or a predecessor thereof, shall be repealed.
15. This By-law comes into force on the date it is given third and final reading.

**BE IT FURTHER ENACTED**, that all By-Laws, or parts thereof and all or any Resolutions of Council contrary thereto, or inconsistent herewith, be and the same are hereby repealed.

Read a first time this **18<sup>th</sup> day of May, 2004.**

Read a second time this **18<sup>th</sup> day of May, 2004.**

Read a third and final time and passed this **18<sup>th</sup> day of May, 2004.**

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MAYOR

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CAO/CLERK

**SCHEDULE “A”**

**TO BY-LAW NO. 2004-15**

**TOWNSHIP OF MCNAB/BRAESIDE**

**DEVELOPMENT CHARGES SERVICE CATEGORIES**

**Allocation of Development Charges Between Service Categories**

<u>Service Category</u>	<u>Proportional Share</u>	
	<u>Residential</u>	<u>Commercial/ Industrial</u>
Development Charges Studies	1.4 %	1.6 %
Fire Protection	24.2 %	28.0 %
Transportation	60.8 %	70.4 %
Recreation	13.6 %	0.0 %
Total	<u>100.0%</u>	<u>100.0%</u>

**SCHEDULE "B"**  
**TO BY-LAW NO. 2004-15**  
**TOWNSHIP OF MCNAB/BRAESIDE**  
**DEVELOPMENT CHARGES**

<u>Use</u>	<u>Category</u>	<u>Development Charge</u>
Residential (per dwelling unit)	Single Detached Dwelling	\$2,619.00
	Single Attached Dwelling	\$2,418.00
	Apartment	\$2,015.00
	Mobile Home	\$1,914.00
Commercial/ Industrial* (per m <sup>2</sup> of G.F.A.)	Applies to all categories except enlargements of existing industrial buildings of 50% of the G.F.A. or less. For enlargements of existing industrial buildings that are greater than 50%, a charge is applied only to the amount that exceeds 50%.	\$0.00 per m <sup>2</sup>
Institutional	Charge determined as per nature of the use, ie. Residential components charged according to class of use and other components charged as per Commercial/ Industrial rate.	

**SCHEDULE “C”****TO BY-LAW NO. 2004-15****TOWNSHIP OF MCNAB/BRAESIDE****DEVELOPMENT CHARGES - EXCEPTIONS RELATING TO THE CREATION OF  
ADDITIONAL DWELLING UNITS**

\* Note this is an excerpt from O. Reg. 82/98, as amended.

“2. For the purposes of Clause 2 (3) (b) of the Act, the following table sets out the name and description of the classes of residential buildings that are prescribed, the maximum number of additional dwelling units that are prescribed for buildings in those classes and the restrictions for each class.

Name of Class of Residential Building	Description of Class of Residential Building	Maximum Number of Additional Dwelling Units	Restrictions
Single detached dwellings	Residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings.	Two	The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building.
Semi-detached dwellings or row dwellings	Residential buildings, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building.
Other residential buildings	A residential building not in another class of residential building described in this table	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building.

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