

THE CORPORATION OF THE TOWN OF CALEDON
BY-LAW NUMBER 2011-119

Being a By-law to Impose and Provide for
the Payment of Development Charges for
a Storm Sewer on Coleraine Drive

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 Development Charge Background Study Concerning the Previous Installation of a Storm Sewer on Coleraine Drive by DiGregorio Investments Limited" dated November 15, 2010 updated to August 9, 2011;

AND WHEREAS a draft version of the foregoing Background Study was reviewed with the owners of the lands affected by a draft version of this by-law at a meeting held on January 12, 2011;

AND WHEREAS notice of a public meeting was given during the weeks of December 26, 2010 and January 2, 2011 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 foregoing Background Study and a draft version of this by-law available to the public as of January 3, 2011 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 January 26, 2011 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 16 August, 2011, the Council of The Corporation of the Town of Caledon:

- (a) adopted the foregoing 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) "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) "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;
- (f) "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;
- (g) "development charge" means a development charge imposed pursuant to this by-law;
- (h) "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;
- (i) "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, sanitary facilities and living quarters 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;
- (j) "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;
- (k) "grade" means the average level of finished ground adjoining a building or structure at all of its exterior walls;
- (l) "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;
- (m) "local board" means a local board as defined in the Municipal Act, 2001;
- (n) "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;
- (o) "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;
- (p) "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;
- (q) "non-residential" means used or designed or intended to be used other than for residential purposes;

- (r) “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;
 - (s) “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;
 - (t) “Regulation” means Ontario Regulation 82/98, as amended;
 - (u) “residential” means used or designed or intended to be used as a home or residence of one or more persons;
 - (v) “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;
 - (w) “service” means a service described in this by-law or in an agreement made under Section 44 of the Act;
 - (x) “single-detached dwelling unit” means a dwelling unit in a building containing only one dwelling unit;
 - (y) “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;
 - (z) “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;
 - (aa) “Town” means The Corporation of the Town of Caledon; and,
 - (bb) “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 the land in the Bolton South Hill Area that is outlined on Schedule A attached hereto, 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 Subsection 2 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 9 of the Condominium Act, 1998; or,
 - (g) the issuing of a permit under the Building Code Act, 1992 in relation to 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.

Description of Services

4. Development charges shall be imposed in accordance with this by-law in respect of a storm sewer on Coleraine Drive adjacent to that part of the Bolton South Industrial Area that is outlined on Schedule A attached hereto.

Calculation of Development Charges

5. Development charges that are to be imposed upon land in that part of the Bolton South Industrial Area that is outlined on Schedule A attached hereto 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 in the amounts set out in Schedule B attached hereto.

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 semi-detached dwelling unit or the existing townhouse dwelling unit; 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 development charge in respect of the enlargement shall be in the amount set out in Schedule B attached hereto.
- (2) Notwithstanding any other provision of this by-law, for the purpose of Subsection 1 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.

Temporary Buildings or Structures

8. (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 would 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

9. (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 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

10. 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 1 February 2012, in accordance with the Statistics Canada Quarterly Construction Price Statistics (catalogue number 62-007) with the base index value being that in effect on 1 February 2012.

Payment of Development Charges

11. (1) Development charges, adjusted in accordance with Section 10 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 for the land that is to be developed;
 - (b) prior to a certificate being issued for a consent for 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) 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.
- (3) The Town may require the owner or owners of land that is to be developed to enter into an agreement, which may require 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

12. (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

13. 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 16 August 2011.

Effective Date

14. This by-law shall come into force and effect on 16 August 2011.

Expiry Date

15. 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

16. 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

17. 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

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


Schedule


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

Short Title

20. This by-law may be referred to as the Coleraine Drive Storm Sewer Development Charges By-law.

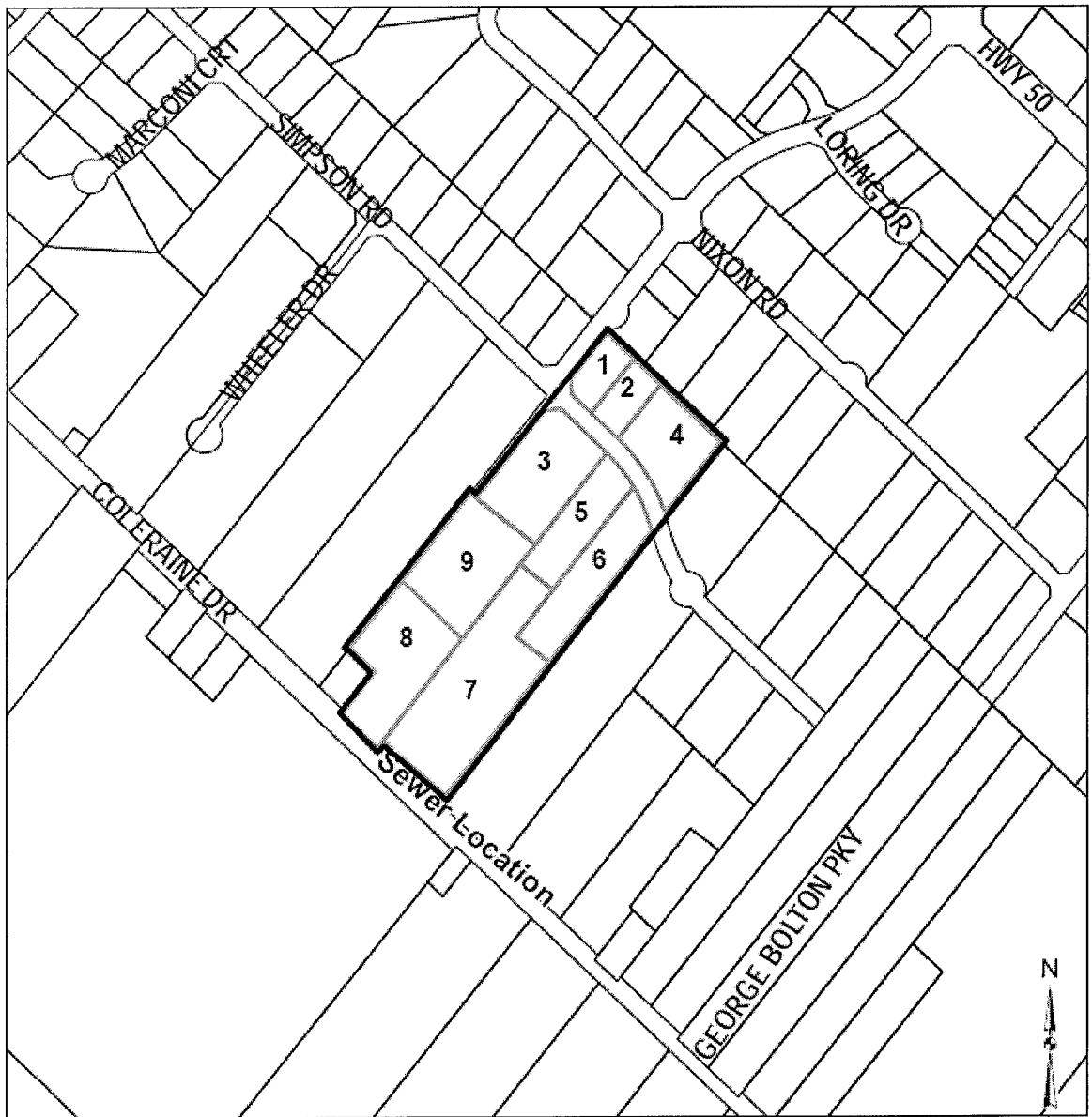
Read three times and finally passed this 16th day of August, 2011


Marilyn Morrisen, Mayor


Karen Landry, Clerk

(Note: A circular official seal is partially visible behind the signatures.)

SCHEDULE A
TO BY-LAW NO. 2011-119



**SCHEDULE B
TO BY-LAW NO. 2011-119**

Property No. (see Schedule A)	Current Property Owner	Development Charge Amount (\$)
1	1537316 Ontario Limited	2967.00
2	Joe Bruno Holdings Inc.	3020.00
3	1245107 Ontario Limited	2,607.00
4	DiGregorio Investments Ltd.	0.00
5	C.D. Donne Holdings Ltd.	267.00
6	M-J-J-J Developments Inc.	344.00
7	DiGregorio Investments Ltd.	786.00
8	541904 Ontario Limited	38,100.00
9	541904 Ontario Limited	27,928.00