

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW NUMBER 2009-183

A BY-LAW TO ESTABLISH DEVELOPMENT CHARGES FOR THE CORPORATION  
OF THE CITY OF KAWARTHA LAKES

**WHEREAS** the City of Kawartha Lakes will experience growth through development and re-development;

**AND WHEREAS** development and re-development requires the provision of physical and social services by the City of Kawartha Lakes;

**AND WHEREAS** Council desires to ensure that the capital cost of meeting growth-related demands for or burden on municipal services does not place an excessive financial burden on the City of Kawartha Lakes or its existing taxpayers while at the same time ensuring new taxpayers contribute no more than the net capital cost attributable to providing the current level of municipal services;

**AND WHEREAS** the *Development Charges Act, 1997* (the "Act") provides that the council of a city may by by-law impose development charges against land to pay for increased capital costs required because of increased needs for services;

**AND WHEREAS** a development charge background study has been completed in accordance with the Act;

**AND WHEREAS** the Council of The Corporation of the City of Kawartha Lakes has given notice of and held a public meeting on the 24 day of August, 2009 in accordance with the Act and the regulations thereto;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF KAWARTHA LAKES ENACTS AS FOLLOWS:**

1. **INTERPRETATION**

1.1 In this By-law the following items shall have the corresponding meanings:

"**Act**" means the *Development Charges Act*, as amended, or any successor thereof;

"accessory use" means where used to describe a use, building, or structure that the use, building or structure is naturally and normally incidental, subordinate in purpose of floor area or both, and exclusively devoted to a principal use, building or structure;

"**advanced services**" means those service components set out in Schedule "B" as Advance Services;

**“agricultural use”** means the use of land and buildings for apiaries, fish farming, animal husbandry or the cultivation of trees, shrubs, flowers, grains, sod, fruits, vegetables and other crops or ornamental plants;

**“apartment unit”** means any residential unit within a building containing three or more dwelling units where access to each residential unit is obtained through a common entrance or entrances from the street level and the residential units are connected by an interior corridor;

**“bedroom”** means a habitable room larger than seven square metres, including a den, study or other similar area, but does not include a bathroom, living room, dining room or kitchen;

**“benefiting area”** means an area defined by map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;

**“board of education”** has the same meaning as set out in the *Education Act*, R.S.O. 1990, Chap. E.2, as amended, or any successor thereof;

**“Building Code Act”** means the *Building Code Act*, S.O. 1992, as amended, or any successor thereof;

**“capital cost”** means costs incurred or proposed to be incurred by the city or a local board thereof directly or by others on behalf of and as authorized by the city 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, construct or improve facilities including,
  - (i) furniture and equipment other than computer equipment, and
  - (ii) material acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act*, R.S.O. 1990, Chap. P.44, as amended, or any successor thereof; and
  - (iii) rolling stock with an estimated useful life of seven years or more, and
- (e) to undertake studies in connection with any matter under the Act and any of the matters in clauses (a) to (d) above, including the development charge background study

required for the provision of services designated in this By-law within or outside the city, including interest on borrowing for those expenditures under clauses (a) to (e) above that are growth-related;

**“commercial”** means any use of land, structures or buildings for the purposes of buying or selling commodities and services, but does not include industrial or agricultural uses, but does include hotels, motels, motor inns and boarding, lodging and rooming houses;

**“Council”** means the Council of the city;

**“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 the effect of increasing the size of usability thereof, and includes redevelopment;

**“development charge”** means a charge imposed with respect to this By-law;

**“dwelling unit”** means any part of a building or structure used, designed or intended to be used as a domestic establishment in which one or more persons may sleep and are provided with culinary and sanitary facilities for their exclusive use;

**“existing”** means the number, use and size that existed as of the date this by-law was passed;

**“farm building”** means any part of a building which is not used for residential purposes and which building is located on 3 or more hectares of land and which building is used solely for farm and farm related activities carried out on the same farm and includes barns, implement sheds, seasonal roadside stands and silos but does not include processing or year round wholesale or retail facilities.

**“gross floor area”** means:

- (a) in the case of a residential building or structure, the total area of all floors above grade of a dwelling unit measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls dividing the dwelling unit from any other dwelling unit or other portion of a building; and
- (b) in the case of a non-residential building or structure, or in the case of a mixed-use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below grade measured between the outside surfaces of the exterior walls, or between the outside surfaces of exterior walls and the centre line of party walls dividing a non-residential use and a residential use, except for:
  - (i) a room or enclosed area within the building or structure above or below grade that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;
  - (ii) loading facilities above or below grade; and

- (iii) a part of the building or structure below grade that is used for the parking of motor vehicles or for storage or other accessory use;

**“industrial”** means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;

**“institutional”** means land, buildings, structures or any part thereof used by any organization, group or association for promotion of charitable, educational or benevolent objectives and not for profit or gain. Institutional uses include student residences, nursing homes, and seniors’ accommodation which consist of bedrooms with or without private sanitary facilities, plus common areas for kitchen and eating facilities and common recreation/activity areas;

**“Local Board”** means a school board, public utility, commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, 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, including school purposes, of the City of Kawartha Lakes or any part or parts thereof;

**“local services”** means those services, facilities or things which are under the jurisdiction of the city and are related to a plan of subdivision or within the area to which the plan relates in respect of the lands under Sections 41, 51 or 53 of the *Planning Act*, R.S.O. 1990, Chap. P.13, as amended, or any successor thereof;

**“multiple dwellings”** means all dwellings other than single-detached, semi-detached and apartment unit dwellings;

**“non-residential use”** means a building or structure of any kind whatsoever used, designed or intended to be used for other than a residential use;

**“Official Plan”** means the Official Plan adopted for the City, as amended and approved;

**“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’

**“place of worship”** means that part of a building or structure that is exempt from taxation as a place of worship under the *Assessment Act*, R.S.O. 1990, Chap. A.31, as amended, or any successor thereof;

**“rate”** means the interest rate established weekly by the Bank of Canada based on Treasury Bills having a term of 91 days;

**“regulation”** means any regulation made pursuant to the Act;

**“residential dwelling”** means a building, occupied or capable of being occupied as a home, residence or sleeping place by one or more persons, containing one or more dwelling units but not including motels, hotels, tents, truck campers, tourist trailers, mobile camper trailers or boarding, lodging or rooming houses;

**“residential use”** means the use of a building or structure or portion thereof for one or more dwelling units. This also includes a dwelling unit on land that is used for an agricultural use;

**“row dwelling”** means a building containing three or more attached dwelling units in a single row, each of which dwelling units has an independent entrance from the outside and is vertically separated from any abutting dwelling unit;

**“school, private”** means a private school defined under the *Education Act* or any successor thereto, being “an institution at which instruction is provided at any time between the hours of 9 a.m. and 4 p.m. on any school day for five or more pupils who are of, or over compulsory school age in any of the subjects of the elementary or secondary school courses of study”.

**“semi-detached dwelling”** means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but not other parts, attached or another dwelling unit where the residential unit are not connected by an interior corridor;

**“service”** means a service designed in Schedule “A” to this By-law, and “services” shall have a corresponding meaning;

**“servicing agreement”** means an agreement between a landowner and the city relative to the provision of municipal services to specified land within the city;

**“single detached dwelling unit”** means a residential building consisting of one dwelling unit and not attached to another structure; and

**“Zoning By-Law”** means the Zoning By-Law of the City of Kawartha Lakes or any successor thereof passed pursuant to Section 34 of the Planning Act, S.O. 1998.

## **2. DESIGNATION OF SERVICES**

2.1 The categories of services for which development charges are imposed under this By-law are as follows:

- (a) Roads and Related;

- (b) Other Transportation Services – Airport;
- (c) Fire Protection Services;
- (d) Outdoor Recreation Services;
- (e) Indoor Recreation Services;
- (f) Library Services;
- (g) Administration Services;
- (h) Homes for the Aged;
- (i) Health Facilities;
- (j) Subsidized Housing;
- (k) Ambulance;
- (l) Other Transportation – Transit (Lindsay);
- (m) Police Services (Lindsay)
- (n) Wastewater Services; and
- (o) Water Services

2.2 The components of the services designated in section 2.1 are described in Schedule A.

### **3. APPLICATION OF BY-LAW RULES**

3.1 Development charges shall be payable in the amounts set out in this By-law where:

- (a) the lands are located in the area described in section 3.2; and
- (b) the development of the lands requires any of the approvals set out in subsection 3.4(a).

#### Area to Which By-law Applies

3.2 Subject to section 3.3, this By-law applies to all lands in the City of Kawartha Lakes whether or not the land or use thereof is exempt from taxation under s. 13 or the Assessment Act.

3.3. Notwithstanding clause 3.2 above, this by-law shall not apply to lands that are owned by and used for the purposes of:

- (a) buildings or structures owned by and used for the purposes of any Municipality, County or a local board thereof;
- (b) a board of education; or
- (c) buildings or structures to be used as hospitals governed by the Public Hospitals Act, R.S.O., 1990;

### Approvals for Development

- 3.4 (a) Development charges shall be imposed on all lands, buildings or structures that are developed for residential or non-residential uses if the development requires:
- (i) the passing of a zoning by-law or of an amendment to a zoning by-law 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, Chap. C.26, as amended, or any successor thereof; or
  - (vii) the issuing of a permit under the *Building Code Act* in relation to a building or structure.
- (b) No more than one development charge for each service designated in subsection 2.1 shall be imposed upon any lands, buildings or structures to which this By-law applies even though two or more of the actions described in subsection 3.4(a) are required before the lands, buildings or structures can be developed.
- (c) Despite subsection 3.4(b), if two or more of the actions described in subsection 3.4(a) occur at different times, additional development charges shall be imposed if the subsequent action has the effect of increasing the need for services.

### Exemptions

- 3.5 Notwithstanding the provisions of this By-law, development charges shall not be imposed with respect to:
- (a) an enlargement to an existing dwelling unit;
  - (b) one or two additional dwelling units in an existing single detached dwelling; or
  - (c) one additional dwelling unit in any other existing residential building;
- 3.6 Notwithstanding section 3.5(b), development charges shall be imposed if the total gross floor area of the additional one or two units exceeds the gross floor area of the existing dwelling unit.
- 3.7 Notwithstanding section 3.5, development charges shall be imposed if the additional unit has a gross floor area greater than
- i. in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and

- ii. in the case of any other residential building, the gross floor area of the smallest dwelling unit contained in the residential building.

### 3.8 Exemption for Industrial Development:

3.8.1 Notwithstanding any other provision of this by-law, no development charge is payable with respect to an enlargement of the gross floor area of an existing industrial building where the gross floor area is enlarged by 50 percent or less.

3.8.2 If the gross floor area of an existing industrial building is enlarged by greater than 50 percent, the amount of the development charge payable in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:

- 1) determine the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement;
- 2) divide the amount determined under subsection 1) by the amount of the enlargement

3.9 For the purpose of section 3.8 herein, “existing industrial building” is used as defined in the Regulation made pursuant to the Act.

### 3.10 Other Exemptions:

Notwithstanding the provision of this by-law, development charges shall not be imposed with respect to:

- a) Buildings or structures used as farm buildings;
- b) With respect to industrial development, for a new building or an enlargement the first 1,000 sq. m of gross floor area; and

## Amount of Charges

### Residential

3.11 The development charges set out in Schedule B shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use building or structure, according to the type of residential unit, and calculated with respect to each of the services according to the type of residential use.

### Non-Residential

3.12 The development charges described in Schedule B to this by-law shall be imposed on non-residential uses of lands, buildings or structures, and, in the case of a mixed use

building or structure, on the non-residential uses in the mixed use building or structure, and calculated with respect to each of the services according to the total floor area of the non-residential use.

- 3.13 Notwithstanding section 3.12 above, for Institutional uses as defined, the amount of Development Charge payable with respect to lands which are subject of any approvals outlined in section 3.4, shall be calculated as 50% of the Non-Residential Charge determined in accordance with section 3.12.

#### Reduction of Development Charges for Redevelopment

- 3.14 Despite any other provisions of this By-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within 3 years prior to the date of payment of development charges in regard to such redevelopment was, or is to be demolished, in whole or in part, or converted from one principal use to another principal use on the same land, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by the following amounts:

- (a) in the case of a residential building or structure, or in the case of a mixed-use building or structure, the residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charge under subsection 3.11 by the number, according to type, of dwelling units that have been or will be demolished or converted to another principal use; and
- (b) in the case of a non-residential building or structure or, in the case of mixed-use building or structure, the non-residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charges under subsection 3.12, by the gross floor area that has been or will be demolished or converted to another principal use;

provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.

#### Time of Payment of Development Charges

- 3.15 Development charges imposed under this By-law are calculated, payable, and collected upon issuance of a building permit for the development.

- 3.16 Notwithstanding section 3.15, the timing of calculation and payment for those portions of the Development Charge attributable to: roads and related, water, and wastewater, with respect to an approval of a Plan of Subdivision under section 51 or a consent under section 53 of the Planning Act., 1990 as amended, shall be addressed in the subdivision or development agreement and shall be payable in conjunction with the execution of that subdivision or development agreement, subject to any applicable exemptions contained in this By-law, and calculated as follows:

- a) in the case of residential development or the residential portion of a mixed-use development, based upon:
  - i) the proposed number of dwelling units; and
  - ii) with respect to blocks intended for future development, the maximum number of dwelling units permitted under the then-existing zoning;
- b) in the case of non-residential or the non-residential portion of a mixed-use development, based upon the maximum floor area permitted under the then-existing zoning.

3.16 .1 In the case of any lands for which payments have been made in conjunction with the execution of an agreement pursuant to Section 3.16 (such payments hereafter being referred to as “Hard Service Prepayments”, then, at the time of issuance of the applicable Building Permit(s):

- i. The only additional Development Charge payment required shall be that portion of the then-prevailing Development Charge applicable to services other than roads and related, water and wastewater, save and except as provided for in 3.16.1(ii) hereof.
- ii. The original Hard Service Prepayment amount shall be recomputed based on the actual number and type of residential units and/or the actual non-residential gross floor area for which the Building Permit(s) is/are to be issued, and based on the per-dwelling and per-square-foot rates in effect at the time of the original Hard Service Prepayment. Thereupon:
  - (a) In the event that the recomputed amount is greater than the amount of the original Hard Service Prepayment, the amount by which the former exceeds the latter shall be payable in conjunction with and as a precondition to the issuance of the applicable Building Permit.
  - (b) In the event that the recomputed amount is less than the amount of the original Hard Service Prepayment, the amount by which the latter exceeds the former shall, upon the issuance of the Building Permit, immediately be reimbursed to the party that made the original *Hard Serve Prepayment* or to such third party as may be designated by it.

3.16.2 In the case of any lands for which payments have been made in conjunction with the execution of an agreement pursuant to Section 3.16 (such payments hereafter being referred to as “Hard Service Prepayments”), then, in the event that such lands should thereafter be subject to a further approval of a Plan of Subdivision under section 51 or a consent under section 53 of the Planning Act, 1990 as amended:

- i. No further Hard Service Prepayment shall be required unless the number or type of residential units or the applicable gross floor area, as the case may be, have changed from that/those presupposed in the original computation.
- ii. In the event of such a change, the amount of the applicable Hard Service Prepayment shall be recomputed based on the prevailing per-dwelling or

per-square-foot Development Charge rates currently in effect for roads and related, water, and wastewater, whereupon:

(c ) In the event that the recomputed amount is greater than the amount of the original Hard Service Prepayment, the amount by which the former exceeds the latter shall be payable in conjunction with and as a precondition to the execution of the applicable subdivision or development agreement.

(d) In the event that the recomputed amount is less than the amount of the original Hard Service Prepayment, the amount by which the latter exceeds the former shall, upon the execution of the applicable subdivision or development agreement, immediately be reimbursed to the party that made the original *Hard Service Prepayment* or to such third party as may be designated by it.

3.17 Notwithstanding section 3.15, where a building permit has been issued and development charges paid, and under the provisions of the City's Building Bylaw the building permit expires, then the difference between the charge applicable at the time of issuance of the subsequent building permit and the amount previously paid will be imposed.

3.18 Despite sections 3.15 through 3.17, Council from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable, in accordance with section 27 of the Act.

#### **4. PAYMENT BY SERVICES**

4.1 Despite the payment required under subsections 3.11, 3.12 and 3.13, Council may, by agreement, give a credit towards a development charge in exchange for work that relates to a service to which a development charge relates under this By-law.

#### **5. INDEXING**

5.1 Development charges imposed pursuant to this By-law shall be adjusted annually, without amendment to this By-law, on January 1<sup>st</sup> of each year, in accordance with the prescribed index in the Act.

#### **6. SCHEDULES**

6.1 The following schedules shall form part of this By-law:

- Schedule A - Components of Services Designated in section 2.1
- Schedule B - Residential and Non-Residential Development Charges

**7. CONFLICTS**

- 7.1 Where the City and an owner or former owner have entered into an agreement with respect to land within the area to which this By-law applies, and a conflict exists between the provisions of this By-law and such agreement, the provisions of the agreement shall prevail to the extent that there is a conflict.
- 7.2 Notwithstanding section 7.1, where a development which is the subject of an agreement to which section 7.1 applies, is subsequently the subject of one or more of the actions described in subsection 3.4(a), an additional development charge in respect of the development permitted by the action shall be calculated, payable and collected in accordance with the provisions of this By-law if the development has the effect of increasing the need for services, unless such agreement provides otherwise.

**8. SEVERABILITY**

- 8.1 If, for any reason, any provision of this By-law is held to be invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

**9. DATE BY-LAW IN FORCE**

- 9.1 This By-law shall come into effect at 12:01 AM on September 9, 2009.

**10. DATE BY-LAW EXPIRES**

- 10.1 This By-law will expire at 12:01 AM on September 9, 2014 unless it is repealed by Council at an earlier date.

**11. EXISTING BY-LAW REPEALED**

- 11.1 By-law 2004-164 (as amended) is hereby repealed as of the date and time of this By-law coming into effect.

By-law read a first and second time this 8<sup>th</sup> day of September, 2009.

By-law read a third time, as amended, and finally passed this 8<sup>th</sup> day of September, 2009.

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Mayor

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City Clerk

**SCHEDULE "A" TO BY-LAW 2009-183**

**COMPONENTS OF SERVICES DESIGNATED IN SUBSECTION 2.1**

City-Wide 100% Eligible Services

Roads and Related  
 Roads  
 Depots and Domes  
 Public Works Rolling Stock

Fire Protection Services  
 Fire Facilities  
 Fire Vehicles  
 Small Equipment and Gear

90% Eligible Services

Administration Services  
 Studies

Indoor Recreation Services  
 Recreation Facilities

Outdoor Recreation Services  
 Parkland Development, Amenities, and Trails  
 Parks and Recreation Vehicles and Equipment

Other Transportation Services – Airport  
 Airport Facilities

Ambulance  
 Ambulance Facilities  
 Vehicles

Subsidized Housing  
 Facilities

Library Services  
 Library Facilities  
 Library Collection Materials

Homes for the Aged  
 Facilities

Area Specific - Urban Serviced Area

Wastewater Services  
 Wastewater Discharge, Treatment Plants and Related Facilities

Water Services  
 Water Supply, Treatment Plants, and Related Facilities  
 Vehicles

Area Specific – Lindsay Area

Police  
 Police Facilities  
 Police Vehicles  
 Small Equipment and Gear

Other Transportation Services – Transit  
 Transit Vehicles  
 Transit Facilities

**SCHEDULE "B" TO BY-LAW 2009-183**  
**SCHEDULE OF DEVELOPMENT CHARGES**

SERVICE	RESIDENTIAL				NON-RESIDENTIAL (per ft <sup>2</sup> of Gross Floor Area)
	Single-Detached Dwelling & Semi- Detached Dwelling	Apartments 2 Bedrooms +	Apartments Bachelor & 1 Bedroom	Multiple Dwellings	
<b>City-Wide Services:</b>					
Roads and Related	1,917	1,302	878	1,302	2.32
Other Transportation Services - Airport	35	24	16	24	0.04
Fire Protection Services	411	279	188	279	0.26
Outdoor Recreation Services	254	173	116	173	0.11
Indoor Recreation Services	353	240	162	240	0.16
Library Services	187	127	86	127	0.08
Administration	63	43	29	43	0.07
Homes for the Aged	378	257	173	257	-
Health Facilities	-	-	-	-	-
Subsidized Housing	31	21	14	21	-
Ambulance	50	34	23	34	0.05
<b>Total City-Wide Services</b>	<b>3,678</b>	<b>2,500</b>	<b>1,685</b>	<b>2,500</b>	<b>3.10</b>
<b>Area-Specific Services - Lindsay</b>					
Other Transportation Services - Transit	65	44	30	20	0.06
Police Services (Lindsay)	498	338	230	156	0.46
<b>Total Area-Specific Services - Lindsay</b>	<b>563</b>	<b>382</b>	<b>260</b>	<b>176</b>	<b>0.52</b>
<b>Urban Services</b>					
Wastewater Services	1,094	743	501	743	0.98
Water Services	1,252	851	573	851	1.12
<b>Total Urban Services</b>	<b>2,346</b>	<b>1,594</b>	<b>1,074</b>	<b>1,594</b>	<b>2.10</b>
<b>GRAND TOTAL RURAL AREA</b>	<b>3,678</b>	<b>2,500</b>	<b>1,685</b>	<b>2,500</b>	<b>3.10</b>
<b>GRAND TOTAL URBAN AREA - LINDSAY</b>	<b>6,587</b>	<b>4,476</b>	<b>3,019</b>	<b>4,270</b>	<b>5.72</b>
<b>GRAND TOTAL URBAN AREA - EXCL. LINDSAY</b>	<b>6,024</b>	<b>4,094</b>	<b>2,759</b>	<b>4,094</b>	<b>5.20</b>