

THE CORPORATION OF THE TOWN OF GRIMSBY

BY-LAW NO. 21-15

A BY-LAW TO AMEND BY-LAW 16-73, AS AMEND BY BY-LAW 18-39,
RESPECTING DEVELOPMENT CHARGES FOR THE TOWN OF GRIMSBY

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

And whereas the Town has undertaken a study pursuant to the Act which has provided an updated Schedule B to By-law 16-73;

And whereas Council has before it a report entitled "Town of Grimsby Development Charge Background Study" prepared by Watson & Associates Economists Ltd. dated December 21, 2020;

And whereas the Council of the Corporation of the Town of Grimsby has given notice of and held a public meeting on the 1st day of February, 2021 in accordance with the Act and the regulations thereto;

Now therefore the Council of the Corporation of the Town of Grimsby enacts as follows:

1. By-law 16-73 is hereby amended as follows:
 - a. Schedules "A" and "B" are deleted, and the attached Schedule "A" and "B" are substituted, therefore.
2. The following definitions are added and/or replaced in section 1 of the by-law:
 - a. The definition of "accessory use" is replaced to be:

"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, but is not an ancillary residential building.
 - b. The following definitions are added:

"Ancillary residential building" means a residential building that would be ancillary to a detached dwelling, semi-detached dwelling, or row dwelling.

"Back-to-back townhouse dwelling" means a building containing more than two dwelling units separated vertically by a common wall, including a rear common wall, that do not have rear yards.

"brownfield" means land located within the urban areas as defined from time to time in the Town's Official Plan, upon which there has been previous agricultural, industrial, institutional, or commercial open lands use or other use as prescribed under the Environmental Protection Act, R.S.O. 1990, c.E.19 and Ontario

Regulation 153/04 thereto, each as amended from time to time, and for which site remediation is required in accordance with a Phase 2 Environmental Site Assessment, and for which a Record of Site Condition has been filed on the Province's Brownfields Environmental Site Registry pursuant to the Environmental Protection Act, R.S.O. 1900 c.E.19 and Ontario Regulation 153/04 thereto, each as amended from time to time;

"Cannabis plant" means a plant that belongs to the genus Cannabis.

"Cannabis Production Facilities" means a building, or part thereof, designed, used, or intended to be used for one or more of the following: cultivation, propagation, production, processing, harvesting, testing, alteration, destruction, storage, packaging, shipment or distribution of cannabis where a licence, permit or authorization has been issued under applicable federal law and does include, but is not limited to such buildings as a greenhouse and agricultural building associated with the use. It does not include a building or part thereof solely designed, used, or intended to be used for retail sales of cannabis.

"Live/work unit" means a unit which contains separate residential and non-residential areas intended for both residential and non-residential uses concurrently and shares a common wall or floor with direct access between the residential and non-residential areas.

"Non-profit housing development" means development of a building or structure intended for use as residential premises by,

- i. a corporation without share capital to which the Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing;
- ii. a corporation without share capital to which the Canada Not-for-profit Corporations Act applies, that is in good standing under that Act and whose primary object is to provide housing; or
- iii. a non-profit housing co-operative that is in good standing under the Co-operative Corporations Act, or any successor legislation.

"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.

"Stacked townhouse dwelling" means a building containing two or more dwelling units where each dwelling unit is

separated horizontally and/or vertically from another dwelling unit by a common wall or floor.

“Town” means the Corporation of the Town of Grimsby.

- c. The definition of “industrial” in is replaced with:

“industrial” means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, transportation and warehousing or bulk storage of goods, wineries and distilleries, utilities (electric and gas), construction, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, and includes cannabis production facilities, but does not include the sale of commodities to the general public through a warehouse club, self-storage or mini-storage facilities;

3. The components of the services designated in subsection 2.1 are amended to remove all service except:

- a. Parking Services (formerly referred to as Other Transportation Services.

4. The following subsection is inserted as subsection 3.7:

“Rules with Respect to Exemptions for Intensification of Existing Housing or New housing”

Notwithstanding the provisions of this by-law, development charges shall not be imposed with respect to developments or portions of developments as follows:

- a. the enlargement to an existing residential dwelling unit;
- b. one or two additional dwelling units in an existing single detached dwelling or prescribed ancillary structure to the existing residential building;
- c. the creation of additional dwelling units equal to the greater of one or 1% of the existing dwelling units in an existing residential rental building containing four or more dwelling units or prescribed ancillary structure to the existing residential building;
- d. the creation of one additional dwelling unit in any other existing residential building already containing at least one dwelling unit or prescribed ancillary structure to the existing residential building; or
- e. the creation of a second dwelling unit in prescribed classes of proposed new residential buildings, including structures ancillary to dwellings, subject to the following restrictions:

Item	Name of Class of Proposed New Residential Buildings	Description of Class of Proposed New Residential Buildings	Restrictions
1	Proposed new detached dwellings	Proposed new residential buildings that would not be attached to other buildings and that are permitted to contain a second dwelling unit, that being either of the two dwelling units, if the units have the same gross floor area, or the smaller of the dwelling units.	The proposed new detached dwelling must only contain two dwelling units. The proposed new detached dwelling must be located on a parcel of land on which no other detached dwelling, semi-detached dwelling or row dwelling would be located.
2	Proposed new semi-detached dwellings or row dwellings	Proposed new residential buildings that would have one or two vertical walls, but no other parts, attached to other buildings and that are permitted to contain a second dwelling unit, that being either of the two dwelling units, if the units have the same gross floor area, or the smaller of the dwelling units.	The proposed new semi-detached dwelling or row dwelling must only contain two dwelling units. The proposed new semi-detached dwelling or row dwelling must be located on a parcel of land on which no other detached dwelling, semi-detached dwelling or row dwelling would be located.
3	Proposed new residential buildings that would be ancillary to a proposed new detached dwelling, semi-detached dwelling or row dwelling	Proposed new residential buildings that would be ancillary to a proposed new detached dwelling, semi-detached dwelling or row dwelling and that are permitted to contain a single dwelling unit.	The proposed new detached dwelling, semi-detached dwelling or row dwelling, to which the proposed new residential building would be ancillary, must only contain one dwelling unit. The gross floor area of the dwelling unit in the proposed new residential building must be equal to or less than the gross floor area of the detached dwelling, semi-detached dwelling or row dwelling to which the proposed new residential building is ancillary.

3.7.1 Notwithstanding subsection 3.7 (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.

3.7.2 Notwithstanding subsection 3.7 (d), development charges shall be imposed if the additional unit has a gross floor area greater than

- a) in the case of a semi-detached or row dwelling, the gross floor area of the existing smallest dwelling unit; and
- b) in the case of any other residential building, the gross floor area of the smallest dwelling unit already contained in the residential building.”

5. Subsection 3.8 is replaced with:

The development charges described in Schedule B to this By-law 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, including the residential component of a live/work unit, according to the type of unit, and calculated with respect to each of the services according to the type of residential use.

6. Subsection 3.9 is replaced with:

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, including the non-residential component of a live/work unit, and calculated with respect to each of the services according to the gross floor area of the non-residential use.

7. Subsection 3.10 is replaced with:

“Despite any other provision of this By-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within 60 months 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 3.8 of this by-law by the number, according to type, of dwelling units that have been or will be demolished or converted to another principal use; and provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.

8. The following section is inserted as subsection 3.10(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 greater of the applicable development charges under subsection 3.9 or the calculated rate within the Town of Grimsby Development Charges Background Study, April 25, 2018, 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.”

9. The following section is inserted as subsection 3.10 (c):

“where demolition takes place on a brownfield, an application may be made to the Town Treasurer for an extension of time for the redevelopment credit of up to three additional years if the redevelopment has not been able to proceed due to delays in completing the remediation works. This application must be received prior to the expiry of this By-law. This application will be considered by Town Council for approval.

10. The following section is inserted as subsection 3.10 (d):

Where an existing Building is converted in whole or in part from one use (hereinafter referred to in this Section as the "First Use") to another use,

- i. the amount of Development Charges payable shall be reduced by the amount, calculated pursuant to this By-law at the current Development Charges rates in respect of the First Use;
 - ii. the First Use shall be the use as confirmed through the Town's Building Division and related permit records;
 - iii. for greater certainty, and without limiting the generality of the foregoing, no credit shall be allowed where the converted Building or part thereof would have been exempt pursuant to this By-law; and
 - iv. the amount of any credit pursuant to this Section shall not exceed, in total, the amount of the Development Charges otherwise payable pursuant to this By-law with respect to the Redevelopment.
10. Sections 3.11 to 3.12 of By-law 16-73 and 3.13 to 3.27 of amending By-law 18-39 are repealed and replaced with sections 3.11 to 3.16 and 4.1 to 4.15, respectively.
 - 3.11 Development charges imposed under this By-law are calculated, payable, and collected upon issuance of the first building permit for the development.
 - 3.12 Notwithstanding subsection 3.11, the timing of calculation and payment of the services related to a highway component of development charge with respect to an approval of a Plan of Subdivision under section 51 of the *Planning Act*, R.S.O., 1990 as amended, shall be addressed in the subdivision agreement, subject to any applicable exemptions contained in this By-law, and calculated in accordance with subsections 3.8 and 3.9 and of this by-law.
 - 3.13 Notwithstanding subsections 3.9 and 3.11, development charges for rental housing and institutional developments are due and payable in 6 installments commencing with the first installment payable on the date of occupancy, and each subsequent installment, including interest as provided in the Town's Council approved development charge interest policy, as may be revised from time to time.
 - 3.14 Notwithstanding subsections 3.9 and 3.11, development charges for non-profit housing developments are due and payable in 21 installments commencing with the first installment payable on the date of occupancy, and each subsequent installment, including interest as provided in the Town's Council approved development charge interest policy, as may be revised from time to time.

3.15 Where the development of land results from the approval of a site plan or zoning by-law amendment received on or after January 1, 2020, and the approval of the application occurred within two years of building permit issuance, the development charges under subsections 3.8 and 3.9 shall be calculated on the rates set out in Schedule "B" on the date of the planning application, including interest. Where both planning applications apply development charges under subsections 3.8 and 3.9 shall be calculated on the rates, including interest as provided in the Town's Council approved development charge interest policy, as may be revised from time to time, payable on the anniversary date each year thereafter, set out in Schedule "B" on the date of the later planning application, including interest.

3.16 Despite subsections 3.8 to 3.15, and in accordance with section 27 of the Act, 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.

Class A Office Deferral Program

4.1 Notwithstanding subsections 3.11 to 3.16, the Town of Grimsby may offer a deferral for the payment of development charges for Class A Office developments.

4.2 Eligibility criteria:

4.2.1 Applications must be approved by Council prior to the issuance of the main building permit.

4.2.2 Following approval by Council the Applicant must pay an administration fee which shall be \$500 unless otherwise specified in By-law 20-94 (the Town's Consolidated Fee and Charges By-law). Upon the joint approval of the Town Manager and Director of Finance, where the costs to prepare and administer the deferral agreement will exceed the above administration fee the Town may charge an additional amount to cover such costs and the Applicant must pay this additional charge.

4.2.3 The property must not be in tax arrears and there cannot be any outstanding orders on the property from the Town.

4.2.4 The building must either be in the Town's Employment Area as determined by its Official Plan or, if outside of this area, the development must either provide significant and unique community benefits or the development must provide an important strategic economic advantage to the community as determined at the sole discretion of the Town and in a location approved by the Director of Planning.

- 4.2.5 The deferral must be recommended by Town Staff after they have conducted an analysis of the request.
- 4.2.6 The building must be a Class A Office building as determined by the Director of Planning who shall use the following as a guide:
 - 4.2.6.1 New office building with a distinctive design, attractive look, superior exterior finishes on the curtain wall, superior interior quality finishes in the main lobby and common areas, four stories or more and at least 5,000 square meters of leasable/sellable office area.
- 4.2.7 Applicants must enter into an agreement with the Town.
- 4.3 Council may refuse to approve an application that meets all of the eligibility criteria if it believes it is not in the best interest of either the Town or the community.
- 4.4 The application to defer the payment of development charges shall be on a form supplied and approved by the Director of Finance.
- 4.5 Payment of development charges will be deferred to whichever is earlier:
 - 4.5.1 Eight months following the issuance of an occupancy permit for a building for which development charges are being deferred, in whole or in part; or
 - 4.5.2 24 months following the issuance of a main building permit for a building for which the development charges are being deferred, in whole or in part.
- 4.6 One additional deferral of payment for up to six months may be given by the Town at its sole discretion.
 - 4.6.1 An administration fee of \$1,000 shall be paid prior to an additional deferral of six months going into effect unless otherwise specified in By-law 20-94 (the Town's Consolidated Fee and Charges By-law). Upon the joint approval of the Town Manager and Director of Finance, where the costs to prepare and administer the additional deferral will exceed the above administration fee the Town may charge an additional amount to cover such costs and the Applicant must pay this additional charge prior to the additional deferral going into effect.
- 4.7 Interest on deferred development charges shall be at a rate approved by Council. However, the Development Charges Deferral Agreement may provide for the waiving of any interest if, when due, the development charges are paid on time.
- 4.8 In the event the deferred development charges become payable and remain unpaid, in whole or in part, or on their due date remain unpaid, then by entering into an agreement to defer payment of development

charges, the Applicant explicitly agrees that in addition to any other remedy available to the Town at law the amount of unpaid development charges, plus all accrued interest, shall be added to the tax roll(s) related to the property in a manner deemed appropriate by the Town and collected in the same manner as taxes, including that the applicable interest rate that shall apply shall be the rate the Town charges for unpaid taxes.

- 4.9 The Applicant agrees that the Development Charges Deferral Agreement may be terminated by the Town Manager, at his or her sole discretion, if a building permit for the proposed development is not applied for within two months of the Town signing the Development Charges Deferral Agreement.
- 4.10 The Applicant agrees that the Town has the right to terminate the Development Charges Deferral Agreement and the deferred development charges, including interest will therefore become due and payable in full in the event of any default or breach of the Agreement by the Applicant with or without notice to the Applicant from the Town.
- 4.11 Notwithstanding anything in this By-law or the Development Charges Deferral Agreement the following shall be considered a default or breach of the agreement:
 - 4.11.1 Where a mortgage, charge, lien, execution, or other encumbrance affecting the property becomes enforceable against the property; or,
 - 4.11.2 Where the owner of the property becomes bankrupt, whether voluntary or involuntary or becomes insolvent or a receiver/manager is appointed with respect to the property; or,
 - 4.11.3 If the construction of the building deviates from what the Director of planning used to determine the building would be a Class A Office building and the Director of Planning, at his/her sole discretion, then no longer agrees that the building will be Class A Office building; or,
 - 4.11.4 Upon the sale of the property unless the Town agrees in writing, prior to the sale, to assign the Development Charges Deferral Agreement to the new owner.
- 4.12 Any attempt to assign this agreement without the written approval of the Town is void.
- 4.13 If there are mixed uses in the building that include uses other than office then only the development charges related to the office space will be deferred unless staff recommend that the additional uses are ancillary to the office use and that the development charges for this area should also be included in the deferral.

- 4.14 Development charges may be deferred in whole or in part.
- 4.15 Council may, at its sole discretion consider applications that do not meet all eligibility criteria.
10. This amending by-law shall come into force on the 22nd day of March, 2021.
11. Except as amended by this by-law, all provisions of by-law 16-73, as amended, are and shall remain in full force and effect.
12. This By-law will expire on the 18th day of September, 2022.

Read a first time this 22nd day of March, 2021.

Read a second and third time and finally passed this 22nd day of March, 2021.

J.A. Jordan, Mayor

S. Kim, Town Clerk

**Schedule "A" To By-law 16-73
Designated Town Service under this
By-law**

Town-wide Service

1. Parking Services

a. Parking

**Schedule “B”
To By-law 16-73, as Amended
Schedule of Development Charges**

Service	RESIDENTIAL					NON-RESIDENTIAL	
	Single and Semi-Detached Dwelling	Multiples	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Special Care/Special Dwelling Units	Industrial (per sq.ft. of Gross Floor Area)	Non-Industrial (per sq.ft. of Gross Floor Area)
Parking Services	43	29	25	17	-	0.01	0.02
Total Town-Wide Services	43	29	25	17	-	0.01	0.02