

THE CORPORATION OF THE CITY OF FERNIE



Consolidated Development Cost Charges Bylaw No. 2276, 2015

Consolidated to Bylaws:
2299, Amendment # 1

All persons making use of this consolidated version of the City of Fernie Bylaw No. 2276 are advised that it has no legal sanction; that the amendments have been embodied for convenience of reference only and that the original bylaws must be consulted for all purposes of interpreting and applying the Bylaw. Subsections or sections of the original bylaw and/or amendments which have been repealed have not been included in this consolidation.

Certified copies of all City Bylaws are available from the City Clerk.

Amended 2016-08-25

THE CORPORATION OF THE CITY OF FERNIE**Development Cost Charge Bylaw
Bylaw No. 2276, 2015**

A bylaw to provide for the imposition of Development Cost Charges

WHEREAS pursuant to the Local Government Act, the Council of the City of Fernie may, by Bylaw, impose development cost charges;

AND WHEREAS development cost charges may be imposed for the purpose of providing funds to assist the municipality in paying the capital cost of providing, constructing, altering or expanding sewage, water, drainage, highway facilities and parkland or any of them, in order to serve directly or indirectly, the development in respect of which the charges are imposed;

AND WHEREAS the Council of the City of Fernie, has deemed the charges imposed by this bylaw:

- (a) are not excessive in relation to the capital cost of prevailing standards of service in the municipality;
- (b) will not deter development in the municipality;
- (c) will not discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land in the municipality;

AND WHEREAS Council has considered the charges imposed by this bylaw as related to future land use patterns and development, the phasing of works and services and the provision of park land described in an Official Community Plan;

NOW THEREFORE, the Municipal Council of the Corporation of the City of Fernie in open meeting assembled enacts as follows:

1. This Bylaw may be cited as "Development Cost Charge Bylaw No. 2276, 2015".
2. In this Bylaw:

Building Area

means the maximum projected horizontal area of a building including:

- a) eaves;
- b) garages and car-ports on the ground level;
- c) balconies, sun-decks, porches and gazebos;
- d) storage and warehouses; and
- e) other ancillary buildings and structures.

Building Permit	means any permit required by the City that authorizes the construction, alteration or extension of a building or structure.
City	means the City of Fernie.
Commercial	means a commercial development used or intended to be used for the carrying on of any business, including the sale or provision of goods, accommodation, entertainment, meals or services, and highway commercial uses which rely on automobile or truck traffic, but excludes an industrial, institutional or residential development
Council	means the Council of the City of Fernie.
Developer	includes a person who makes application for a subdivision and a person who makes an application for a building permit pursuant to Section 3(b) herein.
Development	means (a) a Subdivision; or (b) the construction, alteration or extension of a building or structure for which a Building Permit is required.
Duplex	means a building which: (a) contains two dwelling units of approximately equal floor areas with each dwelling unit having its own connections to the community water and sewer systems; and (b) excludes one-family dwellings with secondary suites.
Dwelling Unit	means a self-contained residential unit, including a cooking facility and consisting of one or more habitable rooms designed for the accommodation of only one person or family unit.
Fourplex	means a building containing four (4) dwelling units.
Gross Floor Area	means the sum of the horizontal areas of each storey in each building on a parcel measured between the exterior walls of such buildings.
Gross Hectare	means a hectare of land which includes developable areas, undeveloped areas, and areas given over to the development of streets, lanes and open spaces, but excludes the area of land required to be dedicated for parkland, or payment made of the value thereof, pursuant to S.941 of the Local Government Act.
Industrial	means an industrial development or service commercial development generally requiring a larger parcel of land for operation, intended to be used for manufacturing, production,

assembly, testing, warehousing, distribution or storage of products and materials but excludes a commercial, institutional or residential development.

High Density Residential means a Development of 40 or more self-contained dwelling units per gross hectare.

Institutional means a development intended and designed to be used only on a non-profit basis for cultural, recreational, social, religious, governmental, public hospital or educational purposes, but excludes a commercial, industrial, low density residential, medium density residential or high density residential development.

Medium Density Residential means a development of a triplex, fourplex, or any development with a density of 16 to 39 self-contained dwelling units per gross hectare.

Official Community Plan means the *City of Fernie Official Community Plan Bylaw No. 2231, 2014*.

Parcel means any lot, block or other area in which land is held, or into which land is subdivided, including a bare land strata Parcel, but does not include a highway.

Secondary Suite means a self-contained dwelling unit, located within the structure of a one-family dwelling

Subdivision means a subdivision of land into two or more Parcels, including one parcel and a remainder parcel, whether by plan, apt descriptive words or otherwise, under the *Land Title Act* or the *Strata Property Act*.

Triplex means a building containing three (3) dwelling units.

Residential means a use permitted in a residential zone or a residential use in a comprehensive development zone created by the Zoning Bylaw.

Zone(s) means the land areas into which the City is divided pursuant to section 903 of the *Local Government Act*, to be referenced herein in accordance with the map or maps shown and attached to the Zoning Bylaw and for which specific regulations are outlined for each area in the Zoning Bylaw.

Zoning Bylaw means the City of Fernie Zoning Bylaw No. 1750 as amended from time to time.

3. Every person who obtains:

- (a) approval of a subdivision; or
- (b) a building permit authorizing the construction, alteration or extension of a building or structure; or
- (c) a building permit authorizing the construction, alteration or extension of a Single Detached Residential, Duplex Residential, Medium Density Residential, or High Density Residential building, including a building that will after the construction, alteration or extension, contain fewer than four (4) self-contained dwelling units and be put to no other use than the residential use in those dwelling units;

shall pay to the Municipality at the time of the approval of the subdivision or the issue of the building permit, as the case may be, the applicable development cost charges as set out in Schedule "A" - Development Cost Charge Schedule, attached hereto and forming an integral part of this bylaw.

PROVIDED THAT in the event that a building permit and the Zoning Bylaw permits a combination of Commercial, Residential, Industrial, or Institutional use, the applicable rate as specified in the Schedule A shall be calculated and payable on the basis of the Gross Hectare or Gross floor area, as the case may be, intended to be utilized for each particular use.

A person who obtains approval of a subdivision of land may elect not to pay the applicable development cost charges at the time of the approval of the subdivision, and in such an event, development cost charges shall be payable at or before the time of issuance of a building permit for such subdivided land. Development cost charges collected subsequent to time of approval of subdivision and at or before time of issuance of a building permit will be non-refundable.

4. The amount of development cost charges payable depends upon:

- (a) The size of the parcel in square metres (m²) determines which single-detached residential category applies, when applying for a Building Permit for new dwellings within the RR, R1, R1SL, R1B, R2, and R-MH Zones;
- (b) the number of new Dwelling Units proposed when applying for a Building Permit within the R3, and R4 zones; or
- (c) the Gross Floor Area, in square metres (m²), when applying for a Building Permit for Industrial, or Commercial Development.
- (d) For mixed use Developments, the development cost charge payable shall be calculated separately for each portion of the Development contained in the Building Permit application in accordance with the Zones and land uses identified in Schedule "A". The total payable will be the sum of the development cost charges for each portion of the Development.
- (e) Where a type of development is not identified in Schedule A, the amount of development cost charges to be paid to the city shall be equal to the development cost charges that would have been payable for the most comparable type of development.
- (f) The Gross Floor Area of a non-residential building in a commercial, industrial or public zone

shall be determined by summing the horizontal areas of each storey in each building on a parcel measured between the exterior walls of such buildings in square metres for which a building permit is issued for a new construction, alteration or extension.

5. Where Development Cost Charges are payable in accordance with paragraph 3 above, in the amount of \$50,000 or greater, the developer may elect to pay them by installments, subject to the terms and conditions set out below:

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- (a) one third (1/3) of the total Development Cost Charges owing in accordance with this Bylaw shall be paid at the time of subdivision or building permit issuance;
- (b) one half (1/2) of the balance within one year after the date of approval of subdivision or the granting of the building permit;
- (c) the balance shall be paid in full within 2 years after the time of approval of subdivision or building permit issuance;
- (d) where a developer elects to pay the charge by installments and fails to pay an installment within any time required for payment herein, the total balance of the charge becomes due and payable immediately;
- (e) no interest is payable on the unpaid balance of a charge until it becomes due and payable, but when it does, it is a condition of election under this section that interest is payable from that date until payment at the rate or rates prescribed under section 11(3) of the Taxation (Rural Area) Act, for the period of non-payment;
- (f) a developer electing to pay a charge by installments must deposit with the Treasurer at the same time as the payment of the first installment:
 - I. an irrevocable letter of credit or undertaking from a bank, credit union or Trust Company registered under the Financial Institutions Act, or
 - II. a bond or surety licensed under the Insurance Act, or
 - III. a security duly assigned

which ensures to the satisfaction of the Treasurer that upon default the balance of the unpaid charge will be recoverable from the person, the bank, the surety or from the proceeds of the realization of the security, as the case may be.

6. No development cost charge is payable where:

- (a) the building permit authorizes the construction, alteration or extension of a building or part of a building that is, or will be, after the construction, alteration or extension, Institutional;
- (b) the building permit authorizes the construction, alteration or extension of a building or part of a building that is, or will be, after the construction, alteration or extension, exempt from taxation under the Community Charter;
- (c) The building permit authorizes the construction, alteration or extension of a building

where the value of the work authorized by permit does not exceed \$50,000 or any other amount the minister may, by regulation, prescribe;

- (d) a development cost charge has previously been paid for the same development unless, as a result of further development, new capital cost burdens will be imposed on the Municipality.
7. Where an owner has, with the approval of the Municipality, provided or paid the cost of providing specific works and services outside the boundaries of land being subdivided or developed, that are included in the calculations used to determine the amount of a Development Cost Charge, the cost of the works and services, as the case may be, shall be deducted from those classes of Development Cost Charges which are applicable to the works and services.
8. Development Cost Charge Bylaw No.2079, 2008, and any and all amendments thereto is hereby repealed.
9. This bylaw shall come into full force and effect and be binding on persons on the date of adoption.

Introduced and Read a First Time this 10th, day of February, 2015.

Read a Second Time this 10th, day of February, 2015.

Read a Third Time and Passed this 10th, day of February, 2015.

Approved by the Inspector of Municipalities the 9th, day of March, 2015.

RECONSIDERED AND FINALLY ADOPTED this 23rd, day of March, 2015.

Mayor

Director of Corporate Services

Schedule "A"

City of Fernie Development Cost Charge Bylaw 2276

Development Cost Charge Schedule

[illegible]

Index of Amendments

Bylaw	Amendment	Adoption Date
2299 Amend # 1	Bylaw No. 2299 proposes a minor amendment to Section 5 of DCC Bylaw No. 2276, 2015 by adding text to ensure that Development Cost Charges may be paid in installments by a developer only if the amount of all the charges is \$50,000 or greater rather than \$50,000 or less.	2016-08--22