



The Corporation of the Town of Fort Erie By-law 24-2024

Being a By-law to Establish an Industrial Development Charges Grant Program and to Delegate Authority

Whereas section 5(1) of the *Municipal Act*, 2001, provides that the powers of a municipal corporation are to be exercised by its Council; and

Whereas section 5(3) of the *Municipal Act*, 2001, stipulates that the powers of every Council are to be exercised by by-law; and

Whereas section 2(1) of the *Development Charges Act*, 1997, provides that the council of a municipality may pass by-laws for the imposition of development charges against land for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies; and

Whereas the Town of Fort Erie recognizes the need to encourage industrial development through a flexible approach to the collection of development charges; and

Whereas Report CS-13-01-2023 was considered and approved at the Regular Council Meeting held January 29, 2024, recommending the establishment of an Industrial Development Charges Grant program to encourage industrial development within the Town of Fort Erie; and

Whereas it is deemed desirable to establish an Industrial Development Charges Grant program to provide exemptions for development charges for industrial uses and to authorize the delegation of certain authorities to the Manager of Economic Development and Tourism Services, the Chief Building Official and the Town Treasurer concerning the administration of the program;

Now therefore the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

- 1. That** the Industrial Development Charges Grant (“IDCG”) Program attached as Schedule “A” and forming part of this by-law is authorized, adopted and approved.
- 2. That** the Town Treasurer, in consultation with the Manager of Economic Development and Tourism Services and the Chief Building Official, is authorized to approve applications for the IDCG Program within the approved annual budget allocation. In the event that an application, if approved, would exceed the annual budget allocation, it shall be presented to the Town Council for further approval.
- 3. That** the Town Treasurer is authorized and directed to execute the Agreement between the Town and the IDCG applicant, in a form satisfactory to the Town’s Solicitor, and to affix the corporate seal thereto.
- 4. That** the Manager of Economic Development and Tourism Services and the Chief Building Official, or their designate, shall be responsible for the administration of the IDCG Program and the development of the forms related thereto.
- 5. That** this by-law shall come into force and take effect immediately upon the approval of the Town Council.

6. That the Clerk of the Town is authorized to affect any minor modifications, corrections or omissions, solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

Read a first, second and third time and finally passed this 26th day of February, 2024.

Mayor

Clerk

Industrial Development Charge Grant (IDCG)

Eligibility

To be eligible for an IDCG, a project must:

- a) Be a new or expanded above and beyond the statutory exemption for expansions development in the Town of Fort Erie
- b) Meet the definition of Industrial Use in the DC By-law

“Industrial” means land, buildings or structures used for or in connection with manufacturing by:

- manufacturing, producing, and processing goods for a commercial purpose, as well as storing and/or distribution of goods manufactured, produced or processed on site;
- research or development in connection with manufacturing, producing or processing good for a commercial purpose;
- retail sales by a manufacturer, producer or processor of goods they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place;
- office or administrative purposes, if it is: carried out with respect to manufacturing, producing, processing, storage or distributing of something; and in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution.

Application

To apply, applicants must:

- a) Be the owner of the proposed development
- b) Submit a complete application electronically to the Town of Fort Erie a minimum of three months prior to but no later than three months following issuance of a building permit
- c) Not have any property tax arrears or any other arrears or charges by the local municipality, Region or the Province

Program Parameters

- a) Expansion: The IDCG program can be combined, where eligible, with the 50% statutory industrial expansion DC exemption as provided for in the Development Charges Act (DCA). In other words, there is no DC required if an existing industrial building expands up to 50% of the existing gross floor area of the building. Projects eligible for a 50% statutory industrial expansion DC exemption must use this exemption first before accessing any additional IDCG funding.
- b) Tax Class: The IDCG will only apply to the gross floor area of new development or the expansion of an existing development which qualifies under the terms of

the program. This means that if a portion of the development does not meet the terms, it will be subject to the applicable DCs. This includes aligning with property assessment determinations.

- c) Capping: Staff recommend a grant equal to the portion of new development qualifying as industrial, up to 100% of DCs payable with an annual capping amount for the program. The cap will be based on a historical annual average of the program since 2014 and will be increased to reflect the calculated 2024 DC rates. Should the funds remain unused in a specific year, the unused amount would be eligible to be carried forward to use in subsequent years. In the event that an application is submitted during the year and either the annual cap has been reached or the carry-forward balance would result in a deficit, Council would be notified and support with alternate funding considered (e.g., one-time grant increase to the IDCG).
- d) Collections: The purpose of the IDCG is to provide an exemption for qualifying industrial uses. At the time of building permit, the businesses occupying the space may not be known. As such, the Town could require that DCs be collected at time of building permit issuance and a DC grant be provided once it can be demonstrated that an eligible industrial use has occupied the space.
 - (i) If a grant application is approved and industrial use is confirmed, the grant amount may be deducted at the time of building permit issuance, or DCs paid may be refunded upon approval of the application if it is submitted within 90 days of building permit issuance. An agreement between the applicant and the Town will be signed upon application approval. This agreement will be authorized by Council or the Treasurer. The agreement will allow the Town to collect DCs should the Municipal Property Assessment Corporation (MPAC) assessment not primarily be industrial. In the event this happens, the owner must remit the difference in DCs to the municipality within 90 days of the dispute. If the owner fails to do so, the amount shall be added to the assessment roll and will be collected through taxes as provided for in section 32 (1) of the Development Charge Act. Specifically, section 32 (1) states:

If a development charge or any part of it remains unpaid after it is payable, the amount unpaid including any interest payable in respect of it in accordance with this Act shall be added to the tax roll and shall be collected in the same manner as taxes