



## Planning and Development Services

<b>Prepared for</b>	Council-in-Committee	<b>Report No.</b>	PDS-45-2-2019
<b>Agenda Date</b>	October 7, 2019	<b>File No.</b>	350309-457

<b>Subject</b>	<b>SHIPPING/CARGO CONTAINERS DEVELOPMENT CHARGES INFORMATION REPORT</b>
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<b>Recommendations</b>	<b>THAT</b> Council receives this report for information.
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<b>Relation to Council's 2018-2022 Corporate Strategic Plan</b>	Goal: N/A initiative: N/A
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<b>List of Stakeholders</b>	Residents of the Town of Fort Erie Fort Erie Building Department Fort Erie Fire Services
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Prepared by:	Submitted by:	Approved by:
<i>Original Signed</i>	<i>Original Signed</i>	<i>Original Signed</i>
Kira Dolch, MCIP, RPP, CNU-A Associate Director, Planning and Development Services	Richard F. Brady, MA, MCIP, RPP Director, Planning and Development Services	Tom Kuchyt, CET Chief Administrative Officer

### **Purpose of Report**

During the deliberation of PDS-045-1-2019 (Shipping/Cargo Containers in Commercial Zones) on August 12, 2019, Council-in-Committee raised some concerns about development charges and passed the following recommendation:

***“THAT** This report be referred to staff for further information from the Region and other municipalities regarding Development Charges and building permits and that a report return to the Council-in-Committee Meeting on October 7, 2019. **(Carried)**”*

The purpose of this report is to provide information to Council as to whether or not development charges are applicable to the use of converted shipping/cargo containers on commercial properties within the Town and if so is this similar to other municipalities in the Region. This report will provide additional information for Council while deliberating reports PDS-45-2019 and PDS-45-1-2019.

### **Background**

On August 13, 2019, the Chief Building sent an email out to his contacts in Lincoln, St. Catharines, Grimsby, Niagara Falls, Pelham, Niagara-on-the-Lake, Wainfleet, West Lincoln, Welland, Thorold, Port Colborne, Hamilton and the Niagara Region asking how building permits for shipping containers are being dealt with across the Region and information on applicability development charges on non-residential lands.

Mr. Gennings received three responses which are attached for your information (**Appendix “1”**). All the responses stated that a building permit is required and that development charges are applicable.

### **Analysis**

Staff have reviewed the Development Charge By-law for the Region and the 12 other Niagara municipalities and determined that development charges apply to the issuance of a building permit under the Building Code Act except in the City of St. Catharines where no development charges are collected.

In order to determine when a building permit is required, staff reviewed the Building Code Act. The Ontario Building Code states:

- *Any structure occupying an area greater than 10m<sup>2</sup> (108 sq. ft.) consisting of a wall, roof or floor, or a structural system serving the function thereof, including all plumbing, works, fixtures and service systems that lead to/service that structure;*
- *any structure occupying an area of 10m<sup>2</sup> (108 sq. ft.) or less that*

*contains plumbing, including the plumbing that services/leads to that structure;*

- *any addition to an existing building;*
- *plumbing not located within a structure;*
- *a sewage or septic system;*
- *"designated" structures as per the Ontario Building Code; (Division A-1.3.1.1), and;*
- *any alterations to an existing building which affect the structural design of the building including mechanical, electrical\*, plumbing services (no limit on size of building), fire separations, egress (exits), fire protection/suppression systems and/or changing the use of buildings or parts of a building.*

Based on these requirements converted shipping/cargo containers over 10m<sup>2</sup> (108 square feet); or which have plumbing; or which affect the structural design require a building permit.

Some shipping/cargo containers i.e. under 10m<sup>2</sup> (108 sq.ft), without plumbing or without alterations which affect the structural design will not be subject to building permit.

Development charges are applicable if the development requires a building permit but is also applicable as part of the following applications:

- (i) the passing of a zoning by-law or 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, 1998, S.O. 1998, c. 19 as amended, or any successor hereto; or

Planning staff reviewed the development charge exemptions for each of the 12 area municipalities and the Region to determine under what circumstances development

charges may be exempt. It was determined that development charge exemptions vary from municipality to municipality.

The chart below identifies whether or not Development Charges are applicable for converted shipping/cargo containers based on the need for a building permit. This chart also details whether or not the Region or any of the 12 Niagara municipalities offer some exemptions that could be considered for specific uses or areas.

Municipality	DC Applicable?	Exemptions Available?	Commercial Exemptions?
Region of Niagara	Yes	Yes	Yes up to 50% in designated areas with new commercial development that meet smart growth criteria
Niagara Falls	Yes	Yes	No
Thorold	Yes	Yes	No
NOTL	Yes	Yes	No
Pelham	Yes	Yes	Yes exemptions in Downtowns with new commercial development
Welland	Yes	Yes	Yes partial exemption downtown,
Port Colborne	Yes	Yes	Yes in identified Downtown Cores
Grimsby	Yes	Yes	No
Lincoln	Yes	Yes	No
West Lincoln	Yes	Yes	No
Wainfleet	Yes	Yes	Yes 50% reduction on existing commercial lots of record exiting before Aug 2, 2016
St.Catharines	No DC's	No DC's	No DC's
Fort Erie	Yes	Yes	Yes in the designated core areas

Based on this review, there are exemptions available through the Region and in all municipalities with the exception of St. Catharines who do not collect development charges. Of all the municipalities three offer full or partial exemption for commercial development in a designated core or downtown area, one offers a 50% reduction for existing commercial lots of record before Aug.2, 2019 and two full or partial exemption provided they are in a designated area and are part of a larger development proposal.

**Development charges in the Town of Fort Erie for Converted Shipping/Cargo Containers**

Development charges are applicable at the time of building permit unless specifically exempted by the Town of Fort Erie's Development Charge By-law. For the purposes of converted accessory shipping/cargo containers, exemptions to the By-law are available for:

- agricultural uses;

- development related to an institutional use;
- development within the core area as identified in the by-law;
- industrial areas; and
- development on lands owned by the Corporation of the Town of Fort Erie or a local board; a Board of Education; The Regional Municipality of Niagara or a local board thereof; the Niagara Peninsula Conservation Authority; the Crown in right of Ontario or the Crown in right of Canada; the Niagara Parks Commission and development of lands that are leased by the Niagara Parks Commission.

Although there are exemptions for other uses such as agricultural, institutional and industrial uses there are no exemptions for converted shipping/cargo containers on commercial lands unless they are located within one of the following designated core areas in Fort Erie:





### **Regional Development Charges For Converted Accessory Shipping/Cargo Containers**

The Region's Development charges will also be collected by the Chief Building Official at time of building permit as clearly stated in the Region's Development charges By-law. For the purposes of accessory shipping/cargo containers exemptions to the Region's By-law are available for converted containers:

- on lands and buildings owned by and used for the purposes of any local municipality or the Region or any local board unless such buildings or parts thereof are used, designed or intended for use primarily for or in connection with any commercial purpose;
- land and buildings owned by and used for the purposes of a board of education unless such buildings or parts thereof are used, designed or intended for use primarily for or in connection with any commercial purpose;
- granny flats;
- parking structures;
- non-residential lands and buildings used for agricultural use;
- that portion of a place of worship which is used exclusively as a place of worship for religious services and any reception and meeting areas used in connection with, or integral to the worship space.
- lands and buildings used or intended to be used as municipal housing project facilities;
- lands and buildings used for affordable housing projects that receive funding through an agreement with Niagara Regional Housing or a department or designated agency of the Niagara Region;
- canopies including gas station canopies and those intended for the parking and loading or unloading of vehicles;
- Development of a long-term care home shall be reduced by 50%;
- 50% reduction in development located within the Designated Exemption Areas and Brownfield Development within the Urban Areas (Must meet Criteria);
- Exemptions for Intensification of Existing Housing; and
- Exemptions for Industrial Enlargement and Industrial Grant Program subject to criteria.

In this case, converted shipping/cargo containers for an accessory use in a commercial zone is not exempt from development charges unless they are part of larger development in a designated exemption area that meet the smart growth criteria. For example, a vacant lot along Jarvis Street proposing a new commercial development which includes a main building and an accessory converted shipping/cargo container may qualify for a 50% exemption to the Regional development charges if the development meets 5 out of the 9 smart growth criteria.

**Financial/Staffing Implications**

The exemption of development charges creates a financial loss to the municipality. There is staffing implications for the exemption in development charges from the Region, as Town staff are required to provide all documentation on the how the site meets Regional criteria.

**Policies Affecting Proposal**

Shipping/cargo containers are affected by the Town’s Development Charge By-law 47-2019 and Regional Development Charge By-law 98-2017.

**Comments from Relevant Departments/Community and Corporate Partners**

On August 13, 2019, the Chief Building sent an email out to his contacts in Lincoln, St. Catharines, Grimsby, Niagara Falls, Pelham, Niagara-on-the-Lake, Wainfleet, West Lincoln, Welland, Thorold, Port Colborne, Hamilton and the Niagara Region asking how building permits for shipping containers are being dealt with across the Region and information on applicability development charges on non-residential lands.

Mr. Gennings received three responses which are attached for your information (**Appendix “1”**). All the responses stated that a building permit is required and that development charges are applicable.

**Communicating Results**

N/A

**Alternatives**

N/A

**Conclusion**

After review of the Development Charge By-laws for the Region and the 12 Niagara municipalities staff has determined that development charges are applicable at building permit stage. The municipalities differ in their specific exemptions but in all cases,



except St. Catharines, commercial development is not fully or partially exempted without specific criteria or being located in specific areas.

### **Attachments**

**Appendix "1"**- Emails responses from survey



**Fw: Shipping containers**  
Keegan Gennings to: Kira Dolch

09/20/2019 12:40 PM

Regards,

Keegan Gennings C.B.C.O  
Chief Building Official  
Town of Fort Erie  
905-871-1600 ext. 2515

----- Forwarded by Keegan Gennings/FortErie on 09/20/2019 12:40 PM -----

From: "Rolf Wiens" <Rolf.Wiens@notl.com>  
To: "Keegan Gennings" <KGennings@forterie.ca>, "agreenaway@lincoln.ca" <agreenaway@lincoln.ca>, "bthiessen@stcatharines.ca" <bthiessen@stcatharines.ca>, "Ed.VanderWindt@hamilton.ca" <Ed.VanderWindt@hamilton.ca>, "Anthony Boncori" <aboncori@grimsby.ca>, "svaleo@niagarafalls.ca" <svaleo@niagarafalls.ca>, "mzimmer@pelham.ca" <mzimmer@pelham.ca>, "phill.lambert@niagararegion.ca" <phill.lambert@niagararegion.ca>, "rwiens@notl.org" <rwiens@notl.org>, "Randy Deguire" <RDeguire@wainfleet.ca>, "Jeff Menard" <jmenard@westlincoln.ca>, "trogers@portcolborne.ca" <trogers@portcolborne.ca>, "Jack Tosta" <jack.tosta@welland.ca>, "Brouwer, Bill" <bbrouwer@stcatharines.ca>, "Jason Simpson" <Jason.Simpson@thorold.com>  
Date: 08/14/2019 08:50 AM  
Subject: RE: Shipping containers

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NOTL issues BP's. DC's are collectible if on commercial or industrial zoned properties.

**Rolf Wiens, CET, CBCO**

Manager of Building and Enforcement Services  
Chief Building Official  
1593 Four Mile Creek Road, PO Box 100,  
Virgil, ON L0S 1T0  
Phone 905-468-6433  
rolf.wiens@notl.com

**From:** Keegan Gennings <KGennings@forterie.ca>  
**Sent:** August 13, 2019 6:01 PM  
**To:** agreenaway@lincoln.ca; bthiessen@stcatharines.ca; Ed.VanderWindt@hamilton.ca; Anthony Boncori <aboncori@grimsby.ca>; svaleo@niagarafalls.ca; mzimmer@pelham.ca; phill.lambert@niagararegion.ca; rwiens@notl.org; Randy Deguire <RDeguire@wainfleet.ca>; Jeff Menard <jmenard@westlincoln.ca>; trogers@portcolborne.ca; Jack Tosta <jack.tosta@welland.ca>; Brouwer, Bill <bbrouwer@stcatharines.ca>; Jason Simpson <Jason.Simpson@thorold.com>  
**Subject:** Shipping containers

**CAUTION:** This email originated from outside the Town of Niagara-on-the-Lake. Use caution when

clicking on a link or opening an attachment unless you know that the content is safe. If unsure, forward the email to IT to validate.

Hi everyone,

I hope that everyone is enjoying their summer so far.

A question has been raised about building permits for shipping containers and how they are being dealt with across the Region. Does or has your municipality issued permits for shipping containers? and if they are located on other than residential lands do you charge dc's?

Thanks everyone.

Regards,

Keegan Gennings C.B.C.O  
Chief Building Official  
Town of Fort Erie  
905-871-1600 ext. 2515

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Fw: Shipping containers  
Keegan Gennings to: Kira Dolch

09/20/2019 12:40 PM

Regards,

Keegan Gennings C.B.C.O  
Chief Building Official  
Town of Fort Erie  
905-871-1600 ext. 2515

----- Forwarded by Keegan Gennings/FortErie on 09/20/2019 12:40 PM -----

From: "Andrew Greenaway" <agreenaway@lincoln.ca>  
To: "Keegan Gennings" <KGennings@forterie.ca>  
Date: 08/14/2019 09:11 AM  
Subject: Re: Shipping containers

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Yes. Permits required

**Andrew Greenaway**  
**Chief Building Official**  
Town of Lincoln  
Direct: 905-563-2799 ext. 238  
Tel: 905-563-8205  
agreenaway@lincoln.ca

[lincoln.ca](http://lincoln.ca)  
[@TownofLincolnON](https://twitter.com/TownofLincolnON)

**From:** Keegan Gennings <KGennings@forterie.ca>  
**Sent:** Wednesday, August 14, 2019 8:53:05 AM  
**To:** Andrew Greenaway <agreenaway@lincoln.ca>  
**Subject:** Re: Shipping containers

Thanks Andrew, so do you issue a building permit?

Regards,

Keegan Gennings C.B.C.O  
Chief Building Official  
Town of Fort Erie  
905-871-1600 ext. 2515



## APPENDIX "1" TO ADMINISTRATIVE REPORT PDS-45-2-2019 DATED OCTOBER 5, 2019

From: "Andrew Greenaway" <agreenaway@lincoln.ca>  
To: "VanderWindt, Ed" <Ed.VanderWindt@hamilton.ca>, "Keegan Gennings" <KGennings@forterie.ca>, "bthiessen@stcatharines.ca" <bthiessen@stcatharines.ca>, "Anthony Boncori" <aboncori@grimsby.ca>, "svaleo@niagarafalls.ca" <svaleo@niagarafalls.ca>, "mzimmer@pelham.ca" <mzimmer@pelham.ca>, "phill.lambert@niagararegion.ca" <phill.lambert@niagararegion.ca>, "rwiens@notl.org" <rwiens@notl.org>, "Randy Deguire" <RDeguire@wainfleet.ca>, "Jeff Menard" <jmenard@westlincoln.ca>, "trogers@portcolborne.ca" <trogers@portcolborne.ca>, "Jack Tosta" <jack.tosta@welland.ca>, "Brouwer, Bill" <bbrouwer@stcatharines.ca>, "Jason Simpson" <Jason.Simpson@thorold.com>  
Date: 08/14/2019 08:36 AM  
Subject: Re: Shipping containers

Lincoln prohibited shipping containers until the public works dept. installed a bunch years ago and the town revised the zoning bylaw to allow them in industrial and agricultural lands. Planning will allow them in commercial or institutional zones if they are clad with siding. They get charged DC based on use.

**Andrew Greenaway**  
**Chief Building Official**  
Town of Lincoln  
Direct: 905-563-2799 ext. 238  
Tel: 905-563-8205  
agreenaway@lincoln.ca

[lincoln.ca](http://lincoln.ca)  
[@TownofLincolnON](https://www.facebook.com/TownofLincolnON)

**From:** VanderWindt, Ed <Ed.VanderWindt@hamilton.ca>  
**Sent:** Wednesday, August 14, 2019 8:27:06 AM  
**To:** Keegan Gennings <KGennings@forterie.ca>; Andrew Greenaway <agreenaway@lincoln.ca>; bthiessen@stcatharines.ca <bthiessen@stcatharines.ca>; Anthony Boncori <aboncori@grimsby.ca>; svaleo@niagarafalls.ca <svaleo@niagarafalls.ca>; mzimmer@pelham.ca <mzimmer@pelham.ca>; phill.lambert@niagararegion.ca <phill.lambert@niagararegion.ca>; rwiens@notl.org <rwiens@notl.org>; Randy Deguire <RDeguire@wainfleet.ca>; Jeff Menard <jmenard@westlincoln.ca>; trogers@portcolborne.ca <trogers@portcolborne.ca>; Jack Tosta <jack.tosta@welland.ca>; Brouwer, Bill <bbrouwer@stcatharines.ca>; Jason Simpson <Jason.Simpson@thorold.com>  
**Subject:** RE: Shipping containers

Hi Keegan,

In Hamilton we treat buildings made from shipping containers just like we would for any other

building, fees and DCs included – having sad that we do have DC exemptions for additional floor space to existing buildings/uses, so it rarely kicks in.

They just happen to be made of corrugated metal in a structural frame instead of stick frame, poured concretes, precast, block, prefab etc.

A building is a building . . .

Warm regards,

*Ed*



**Ed VanderWindt** *CBCO, CMMIII*  
Chief Building Official  
Director, Building Division  
Planning & Economic Development Department  
905 546-2424 x2574

**From:** Keegan Gennings <KGennings@forterrie.ca>  
**Sent:** Tuesday, August 13, 2019 6:01 PM  
**To:** agreenaway@lincoln.ca; bthiessen@stcatharines.ca; VanderWindt, Ed <Ed.VanderWindt@hamilton.ca>; Anthony Boncori <aboncori@grimsby.ca>; svaleo@niagarafalls.ca; mzimmer@pelham.ca; phill.lambert@niagararegion.ca; rwiens@notl.org; Randy Deguire <RDeguire@wainfleet.ca>; Jeff Menard <jmenard@westlincoln.ca>; trogers@portcolborne.ca; Jack Tosta <jack.tosta@welland.ca>; Brouwer, Bill <bbrouwer@stcatharines.ca>; Jason Simpson <Jason.Simpson@thorold.com>  
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Chief Building Official  
Town of Fort Erie