

**BY-LAW NO. 7175**

BEING A BY-LAW of The City of Brandon to establish development charges and to be known as the “Development Charges By-law”.

WHEREAS *The Planning Act*, Section 143, provides that a Council may, by by-law, set the levies to be paid by applicants to compensate the municipality for the costs specified in the by-law that may be incurred by the subdivision of land;

AND WHEREAS *The Municipal Act*, Sections 232(2), 250 and 252 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 a development charge background study has been completed which identifies new infrastructure required to service planned growth in the City of Brandon;

AND WHEREAS a public consultation has been completed that summarizes the public and stakeholder consultations held to facilitate public input on the Development Charge By-law;

AND WHEREAS the charges imposed by this Bylaw are related to capital costs attributable to projects included in the capital budget and to capital projects consistent to service residential, commercial, industrial, or institutional designated lands in the Brandon and Area Planning District Development Plan;

NOW THEREFORE, the Council of The City of Brandon, duly assembled, enacts as follows:

**PART I: DEFINITIONS**

1. **DEFINITIONS**  
In this by-law:

“ACT” means *The Municipal Act*, C.C.S.M. c.M225 and amendments thereto.

“ACCESSORY USE” means an activity customarily incidental, related, appropriate and clearly subordinate to the principal use of the site or building.

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

“BUILDING CODE ACT” means *The Buildings and Mobile Homes Act*, C.C.S.M, c. B93 and current amendments or any successor thereto.

“CAPITAL COST” means costs incurred or proposed to be incurred by the City to

- (a) acquire land or an interest in land, including a leasehold interest;
- (b) improve land;
- (c) acquire, lease, construct or improve services designated in Schedule “A” to this by-law;
- (d) undertake studies in connection with any of the matters in clauses (a) through (c), including the development charge background study required for the provision of services designated in this by-law within or outside the City of Brandon, including interest on borrowing for those expenditures under clauses (a) through (c) that are growth-related.

“COUNCIL” means the Council of the City of Brandon.

“DENSITY, LOW” means detached, semi-detached, duplex and row house dwellings.

“DENSITY, HIGH” means multiple dwellings.

“DEVELOPMENT” has the same meaning as set out in *The Planning Act*.

“DEVELOPMENT CHARGE” means a charge imposed with respect to this by-law.

“DEVELOPMENT AGREEMENT” means an agreement between a landowner and the City relative to the provision of municipal services to specified lands within the City of Brandon.

“DWELLING, DETACHED” means a building containing only one (1) dwelling unit and includes a mobile or modular home.

“DWELLING, DUPLEX” means a building containing two (2) dwelling units with both dwelling units occupying the same site.

“DWELLING, MULTIPLE” means a building containing three (3) or more dwelling units, other than a row house dwelling.

**“DWELLING, ROW HOUSE”** means a building with three (3) or more dwelling units joined side by side (or occasionally side to back), such as a townhouse, but not having any other dwellings either above or below. Each unit shall occupy its own site.

**“DWELLING, SEMI-DETACHED”** means a building containing two (2) dwelling units with each dwelling unit occupying its own site.

**“DWELLING UNIT”** means one (1) or more rooms in a building designed for one (1) or more persons as a single housekeeping unit, with cooking, eating, living, sleeping and sanitary facilities.

**“FLOOR AREA”** means the sum of the gross horizontal areas of all the storeys and basements of all buildings and structures on a site, measured from the exterior face of the exterior walls or from the centreline of party walls.

**“GROWTH AREA, EMERGING”** means the areas identified as such in Schedule “C” of this by-law.

**“GROWTH AREA, ESTABLISHED”** means the areas identified as such in Schedule “C” of this by-law.

**“MIXED USE”** means a building or structure of any kind whatsoever used, designed or intended to be used for a mix of residential and non-residential uses.

**“MOBILE HOME”** means a portable dwelling unit which is designed or used for residential occupancy, built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has at any time such wheels attached, or is jacked up or skirted, and which conforms to the structural standards of *The Buildings and Mobile Homes Act*, C.C.S.M. C. B93 and amendments thereto.

**“MODULAR HOME”** means a portable dwelling unit similar to but distinct from a mobile home, in that it may be folded, collapsed or telescoped when in tow, whose chassis is not designed to accommodate wheels, but which may be extended for additional space.

**“NET DEVELOPABLE AREA”** means the area of land in hectares, excluding all lands for

- (a) public or school reserves,
- (b) public streets,
- (c) private roads,
- (c) land for municipal services, and
- (d) land not suitable for building sites as defined in *The Planning Act*.

**“NETWORK INFRASTRUCTURE”** means that infrastructure which is necessary to support planned growth within emerging growth areas, and includes transportation, water distribution, wastewater distribution, and drainage infrastructure.

**“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 and includes all commercial, industrial and institutional uses.

**“OWNER”** means as defined in *The Planning Act* and shall include any person, firm or corporation acting as the agent for the registered owner.

**“PLANNING ACT, THE”** means *The Planning Act*, C.C.S.M. c.P80 and amendments thereto.

**“PLANNING COMMISSION”** means the City of Brandon Planning Commission or designee.

**“RESIDENTIAL USE”** means land, buildings or structures of any kind whatsoever used, designed or intended to be used as living accommodations for one (1) or more individuals.

**“SERVICES”** (or **“SERVICE”**) means those services designated in Schedule “A” to this by-law.

**“SITE”** means an area of land that is a whole lot or block in a registered plan of subdivision, or the aggregate of all contiguous land described in a single certificate of title, or a bareland condominium unit in a registered plan of condominium.

**“TREATMENT”** means that infrastructure which is necessary to support planned growth within established and emerging growth areas, and includes water treatment and wastewater treatment infrastructure.

**“ZONING BY-LAW”** means the City of Brandon Zoning By-law.

**PART II: DESIGNATION OF SERVICES**

2. Development charges are imposed for the following service categories:
  - (a) Treatment - Wastewater
  - (b) Treatment - Water
  - (c) Network Infrastructure - Transportation
  - (d) Network Infrastructure - Wastewater
  - (e) Network Infrastructure - Water
  - (f) Network Infrastructure - Drainage
3. The components of the services designated in Section 2 of this by-law are described in Schedule "A" of this by-law.

**PART III: USE OF DEVELOPMENT CHARGE FUNDS**

4. The funds collected by the development charges:
  - (1) will be used to fund new services or upgrade existing services required for planned growth; and
  - (2) will be placed in six separate reserve funds in accordance with the designated servicing categories in Section 2.
5. Council shall include the services identified for growth in the 10-year capital budget.
6. The timing for constructing the services identified for growth in the 10-year capital budget shall be determined by The City of Brandon Growth Strategy.
7. Council shall approve the services for planned growth in the annual financial plan.

**PART IV: ESTABLISHED AREA CHARGE**

8. Development charges for treatment as per Schedules "B-1" of this by-law and referenced in the annual City of Brandon Fee Schedule By-law apply to all lands within the "Established Growth Area" in the City of Brandon as shown in Schedule "C" to this by-law.
9. Development charges shall be imposed on the owner for water and wastewater treatment as per Schedule B-1 for payment prior to at the issuance of a building permit under the Building Code Act.
10. Development charges imposed as per Section 9 shall be calculated with respect to each of the services in subsections 2 (a) and (b) in accordance with Schedule "B-1" for the following uses:
  - (a) Residential – according to density;
  - (b) Non-Residential – according to floor area; and
  - (c) Mixed Use – according to density for residential portions of buildings and floor area for non-residential portions of buildings.
11. Development charges shall not apply to residential accessory buildings.

**PART V: EMERGING AREA CHARGE**

12. Development Charges for water and wastewater treatment and network infrastructure charges for transportation, water, wastewater, and drainage as per Schedules "B-2" and "B-3" of this by-law and referenced in the annual City of Brandon Fee Schedule By-law apply to the "Emerging Growth Area" in the City of Brandon as shown in Schedule "C" to this by-law.
13. Any lands annexed into The City of Brandon and designated for residential, commercial, industrial, or institutional development in The Brandon and Area Planning District Development Plan shall be included in the "Emerging Growth Area" as shown in Schedule "C" to this by-law..
14. Development charges shall be imposed on the owner for:
  - (a) Network infrastructure (Schedule "B-2") for payment prior to the issuance of a certificate of approval for a subdivision (plan of subdivision or condominium) or prior to a rezoning receiving third reading under *The Planning Act*; and
  - (b) Network infrastructure, and Water and Wastewater Treatment (Schedule "B-3") for payment prior to the issuance of a building permit under *The Building Code Act*.

15. Development charges imposed as per Subsection 14(a) shall be calculated with respect to each of the services in Section 2 (c through f) according to the Net Developable Area of the site in accordance with Schedule B-2. Only the portion of the site which is being intensified (non-residential) or densified (residential) as a result of the subdivision or rezoning shall be included in the development charge calculation.
16. If a site is previously subdivided and zoned to allow the proposed development as a permitted or conditional use in the Zoning By-law and no further subdivision or rezoning is required, the development charges in Subsection 14(a) shall not apply.
17. Development charges imposed as per Subsection 14(b) shall be calculated with respect to each of the services in Section 2 (a through f) in accordance with Schedule "B-3" for the following uses:
  - (a) Residential - according to Density;
  - (b) Non-Residential - according to Floor Area; and
  - (c) Mixed Use - according to Density for residential portions of buildings and Floor Area for non-residential portions of buildings.
18. Development charges shall not apply to residential accessory buildings.

#### PART VI: REDUCTION OF DEVELOPMENT CHARGES

19. Despite Section 9 and Subsection 14(b), development charges due for payment prior to the issuance of a building permit in Schedules "B1" and "B-3" shall be reduced when new development occurs on a previously developed site where:
  - (a) A building in whole or in part was or will be demolished; and the use of the demolished building was discontinued for no more than sixty (60) months prior to the date of payment of development charges; or
  - (b) A building in whole or in part is converted from a non-residential use to a residential use or vice versa; and the use of the converted building was discontinued for no more than sixty (60) months prior to the date of payment of development charges.
20. The reduction shall be calculated in the same manner as the development charges in Sections 10 and 17 for a building or portion of a building that has been or will be demolished or converted to another use.
21. The sum of reductions calculated in Section 19 of this by-law shall:
  - (a) not exceed the amount of the development charges otherwise payable with respect to the redevelopment; and
  - (b) be applied prior to the issuance of a building permit under the Building Code.

#### PART VII: TRANSITIONAL RULES

22. Owners of development sites located in the Emerging and Established growth areas with development agreements executed with the City prior to this by-law coming into force are exempt from the development charges in Sections 9 and 14 until January 1, 2022. After January 1, 2022, developments shall be subject to the development charges in Sections 9 and 14.
23. Despite Section 9 and subsection 14. (b), development charges due for payment after January 1, 2022 and prior to the issuance of a building permit in Schedules "B-1" and "B-3" shall be reduced when previous development agreement contributions for services in subsections 2. (c) – (f) exceed the Net Developable Area (development agreement) charges in subsection 14. (a). The sum of the reductions shall not exceed the amount of the development charges otherwise payable for the development, and shall be applied prior to the issuance of a building permit under *The Building Code Act*.

#### PART VIII: PAYMENT BY SERVICES

24. Despite the development charges in Sections 9 and 14, Council, by agreement, may give a credit towards a development charge in exchange for an owner, at the owner's cost, constructing services identified for growth in the 10-year capital budget.

#### PART IX: INDEXING

25. Development charges imposed in Schedules "B-1, B-2 and B-3" pursuant to this by-law will be automatically adjusted annually, in accordance with Statistics Canada's "*Consumer Price Index (Manitoba)*".

26. The annual indexed percentage increase (or decrease) for the development charges imposed in Schedules “B-1, B-2, and B-3” shall be equal to the previous year’s Consumer Price Index (Manitoba) percentage increase (or decrease) between September 1 of the current year and September 1<sup>st</sup> of the previous year. The indexed development charges for the new year will become effective January 1<sup>st</sup> in the annual City of Brandon Fee Schedule By-law.

#### PART X: CONSULTATIONS

27. The City shall consult with development and building industry representatives prior to recommending any amendments to this by-law regarding the application, or the amount of development charges in Schedules “B-1, B-2 and B-3” of this by-law.
28. Before amending the application, or the amount of development charges in Schedules “B-1, B-2 and B-3” of this by-law, Council must hold a public hearing and give notice at least fourteen (14) days before the hearing.

#### PART XI: COMPLAINTS AND APPEALS

29. Development Charges may be appealed to the Planning Commission. The appeal shall:
- (a) be in writing;
  - (b) include a fee as identified in the annual City of Brandon Fee Schedule By-law; and
  - (c) be filed in writing to the City within 14 days from the date the City sends the determination of the fee under this by-law; and
  - (d) include the reason for the appeal, indicating that:
    - (1) the amount of the charge was incorrectly determined;
    - (2) the reduction to be used against the development charge was incorrectly determined; or
    - (3) there was an error in the application of the development charge.
30. The Planning Commission shall:
- (a) fix a date, time and place for the appeal hearing;
  - (b) at least fourteen (14) days prior to the hearing, send notice of the hearing to the appellant; and
  - (c) after considering the appeal, the Commission may confirm, vary, substitute or cancel payment of the development charges.
31. The decision of the Planning Commission is final.

#### PART XII: SCHEDULES

32. The following schedules of this by-law form an integral part thereof:

Schedule “A” -	Designated Services under This By-law
Schedule “B-1” -	Schedule of Development Charges – Established Growth Area – Development Charges prior to Building Permit
Schedule “B-2” -	Schedule of Development Charges – Emerging Growth Area – Development Charges prior to Subdivision or Rezoning
Schedule “B-3” -	Schedule of Development Charges – Emerging Growth Area – Development Charges prior to Building Permit
Schedule “C” -	Map of Established and Emerging Growth Areas

#### PART XIII: ENACTMENT AND REVIEW

33. This by-law shall come into full force and take effect July 1, 2019. After July 1, 2019, development charges imposed shall apply to rezoning applications (prior to third reading), subdivision applications (prior to the issuance of a certificate of approval) and building permits (prior to the issuance of a permit).
34. The rates in this by-law shall be reviewed every three (3) years following the consultation process in Sections 20 and 21, and does not include the indexing rate increase (or decrease) already provided for in Sections 17 and 18.

35. The rate review shall include an update to the water, wastewater, drainage and transportation infrastructure required to service the residential, commercial, industrial, or institutional designated lands for development in The Brandon and Area Planning District Development Plan at full buildout.

DONE AND PASSED by the Council of The City of Brandon duly assembled this 17<sup>th</sup> day of December A.D. 2018.

“R. Chrest”

MAYOR

“H. Ewasiuk”

CITY CLERK

Read a first time this	19 <sup>th</sup>	day of	June	2017.
Read a second time this	16 <sup>th</sup>	day of	October	2017.
Read a third time this	17 <sup>th</sup>	day of	December	2018.

I, Heather Coreen Ewasiuk, Clerk of the City of Brandon, DO HEREBY CERTIFY the above within to be a true and correct copy of By-law No.7175.

*Original Signed By*  
H. Ewasiuk  
H. Ewasiuk, City Clerk

**SCHEDULE "A"**  
**OF DEVELOPMENT CHARGES BY-LAW NO. 7175**  
**DESIGNATED MUNICIPAL SERVICES UNDER THIS BY-LAW**

**Municipal-wide Services**

**(1) Treatment – Wastewater**

- **Municipal Pre-Treatment Facility**
- **Industrial Wastewater Treatment Facility**

**(2) Treatment – Water**

- **Municipal Water Treatment Facility**

**(3) Network Infrastructure - Transportation**

- **Construction of Street Infrastructure**
  - **Arterial Streets**
  - **Collector Streets**
- **Intersection Improvements**
  - **Signalization**
  - **Roundabouts**

**(4) Network Infrastructure - Water**

- **Linear Infrastructure**
- **Water Distribution Network**

**(5) Network Infrastructure - Wastewater**

- **Linear Infrastructure**
- **Lift Stations**
- **Forcemains**
- **Wastewater Distribution Network**

**(6) Network Infrastructure - Drainage**

- **Storm Sewers**
- **Major Retention Facilities**

**SCHEDULE "B"**

**OF DEVELOPMENT CHARGES BY-LAW NO. 7175**

**Schedule B-1**

**By-law No. 7175**

**Schedule of Development Charges (2019 rates)**

**Established Growth Area – Development Charges prior to Building Permit**

Service	Residential DC (per dwelling unit)		Non-residential DC (per Sq. Ft.)
	Low Density	High Density	
Treatment			
Wastewater	433	280	0.25
Water	339	219	0.19
<b>Total</b>	<b>772</b>	<b>499</b>	<b>0.44</b>

**Schedule B-2**

**By-law No. 7175**

**Schedule of Development Charges (2019 rates)**

**Emerging Growth Area – Development Charges prior to Subdivision or Rezoning**

Service	DC Per Net Hectare (Residential and Non-Residential)
Network Infrastructure	
Transportation	20,060
Wastewater	30,943
Water	9,738
Drainage	2,843
<b>Total</b>	<b>63,584</b>

**Schedule B-3**

**By-law No. 7175**

**Schedule of Development Charges (2019 rates)**

**Emerging Growth Area – Development Charges prior to Building Permit**

Service	Residential DC (per unit)		Non-residential DC (per Sq. Ft.)
	Low Density	High Density	
Treatment			
Wastewater	433	280	0.25
Water	339	219	0.19
<b>Subtotal Treatment</b>	<b>772</b>	<b>499</b>	<b>0.44</b>
Network Infrastructure			
Transportation	850	550	0.48
Wastewater	1,311	848	0.75
Water	413	267	0.23
Drainage	120	78	0.07
<b>Subtotal Network</b>	<b>2,694</b>	<b>1,743</b>	<b>1.53</b>
<b>Total</b>	<b>3,466</b>	<b>2,242</b>	<b>1.97</b>



**SCHEDULE "C"**  
**OF DEVELOPMENT CHARGES BY-LAW NO. 7175**  
**MAP OF ESTABLISHED AND EMERGING GROWTH AREAS**

