

Schedule "A" to By-Law Number 2021

The Corporation of the Town of Essex

By-Law Number 2021

**Being a by-law to authorize the execution of a lease agreement
between the Town of Essex and The Grove Bike Co. for property
to operate bike rental service from the park located at 325
Jackson Street, Harrow, Ontario**

Whereas the Town is the owner of the property located at 325 Jackson Street, Essex, Ontario which has land for lease;

And Whereas The Grove Bike Co. is desirous of leasing space to operate a bike rental service adjacent to the park located at 325 Jackson Street, Essex, Ontario;

And Whereas the Town is desirous of entering into a Lease Agreement with The Grove Bike Co. for leasing property to operate a bike rental service as noted above;

Now therefore the Council of The Corporation of the Town of Essex hereby enacts as follows:

1. That the Mayor and Clerk are hereby authorized to execute a Lease Agreement between The Corporation of the Town of Essex and The Grove Bike Co. to lease space to operate a bike rental service to be located adjacent to the park located at 325 Jackson Street, Essex, Ontario, as designated in Appendix "A" to By-Law 2021a copy of which is attached hereto.

Read a first, second, and third time on May 17, 2021.

This by-law shall come into force and take effect upon the final passing thereof.

Mayor

Clerk

Schedule “A” to By-Law Number 2021

This Agreement made in duplicate this 17th day May 2021

In Pursuance of the Short Forms of Lease Act

Between:

The Corporation of the Town of Essex

“Corporation” or “Lessor”

and

The Grove Bike Co.

“Lessee”

Witnesseth:

Whereas the Municipal Act, 2001, S.O. 2001, Chapter 25, provides the Municipality may, for its own purposes, exercise its powers under the culture, park, recreation, and heritage sphere of jurisdiction in the Municipality.

And Whereas Section 11 provides that the Municipality may pass By-Laws respecting matters relating to culture, parks, recreation, and heritage.

And Whereas the Corporation is the owner and Lessor of those certain premises within the land known as Colchester Park located at 325 Jackson Street, Essex, Ontario.

And Whereas the Lessee The Grove Bike Co. (hereinafter “Grove”) is a duly incorporated Ontario corporation desirous of operating a Bike Rental Business within those certain premises within Colchester Park as further defined in this Lease;

And Whereas in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of Grove to be paid observed and performed, the said Corporation hereby demises and leases unto the said Grove all those lands and/or buildings located in the municipality of Essex and being more specifically described as follows:

Colchester Park – Outdoor space along Jackson Street totaling
320 square feet located at 325 Jackson Street, Colchester

and being composed of the area as shown on Schedule “A” attached hereto (hereinafter called the “premises” or Grove Leased Space”), upon the following terms and conditions:

To have and to hold the premises for a three (3) year term (subject to an option for a further term of two (2) years as herein further described below), to be computed from the 20th day of May, 2021, and ending on the 1st day of May, 2024.

Schedule "A" to By-Law Number 2021

Yielding and paying therefore rental as follows:

The initial rental amount ("base rate") for the Lease for the initial three (3) year term shall be the monthly rate of \$150.66 including applicable HST for 6 months of operation (May to October) due and payable on the 1st day of the initial term and continuing monthly thereafter for the six months of annual operation (May to October) for the duration of this lease. If the option to lease for a further term of two years is exercised then the rental amount thereafter shall be the base rate but with the applicable Consumer Price Index (CPI) to be further incorporated into the base rate annually commencing on the first day of May of each year of this lease.

The Tenant shall also annually on the first anniversary date of each year of this lease provide monthly rental payments in the form of six post-dated cheques based on the applicable rental amount in each year of this Lease.

In the event that any payments required to be made by the Lessee hereunder are not paid when due then interest at the rate of 1.25 percent per monthly from the date when such overdue amounts were due to the date when such overdue amounts are paid shall accrue and due and payable as additional rent pursuant to this lease.

Grove covenants and/or warrants to the Corporation as follows:

1. To pay the rent when due and payable,
2. To pay any and all costs associated with the reasonable operation of the leased premises but excluding those charges for utilities relating to hydro and water consumed in the Premises. Lessee acknowledges that Lessor shall not be liable for any interruption or failure in the supply of any such utilities to the Premises.
3. Lessee, except as herein otherwise specifically provided, shall, at Lessee's expense, repair, maintain and keep the Demised Premises and every part or portion thereof, in good, substantial repair and condition.
4. As a condition precedent to commencement of lease, Grove to pay the cost to install a concrete pad and the cost if applicable to remove fence sections required for container location.
5. As a condition precedent to commencement of lease, Grove to pay cost for any hydro or water hookups, if required at their expense.
6. Not to assign or sublet the premises without the consent of the Corporation, such consent not to be arbitrarily or unreasonably withheld and Grove shall pay the Corporation's reasonable expenses incurred thereby,

Schedule "A" to By-Law Number 2021

7. Not to carry on upon the premises any activities that may be deemed a nuisance or unlawful or by which the insurance on the premises will be increased, and further not to carry on any other business or activities other than the normal operations of Grove bike rentals without the consent of the Corporation, such consent not to be arbitrarily or unreasonably withheld.
8. To leave the premises in good repair, reasonable wear and tear and damage by fire lightning and tempest only excepted,
9. To maintain the premises including the exterior areas located at 325 Jackson Street, Colchester including all common areas, in good condition and free from litter.
10. That it has inspected the Premises and conducted such examinations and tests as it deems desirable. The Grove acknowledges that the Lessor does not warrant or represent the condition of the Premises to the Lessee, and Grove accepts the Demised Premises in its present condition.
11. That, except as herein otherwise specifically provided, Grove assumes the entire responsibility for the condition, operation, maintenance and management of the Premises and Lessor shall have no responsibility whatsoever for same or for damage to the Lessee's property/contents located in and upon the Premises under any circumstances whatsoever.
12. That it shall throughout the term of this lease, at its own expense, keep in force for the benefit of the Corporation and Grove, comprehensive general liability insurance in respect of injury to or death of one or more persons or property damage with limits of not less than Two Million Dollars (\$2,000,000) per occurrence covering the leased premises described herein. The Corporation of the Town of Essex shall be named as an additional insured in the policy of insurance and the policy shall contain a cross liability and separation clause. Such policy of insurance shall not be changed, cancelled, or allowed to lapse without providing the Corporation with thirty (30) days' notice in writing. Grove will provide a Certificate of Insurance for such comprehensive liability insurance upon entering into this Lease Agreement,
13. That it shall throughout the term of this lease, at its own expense, keep in force insurance against loss or damage by fire on any equipment, inventory and supplies owned by Grove and maintained on site,
14. That it will indemnify Lessor and save Lessor harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or at the premises or any part thereof, or occasioned wholly or in part by any act or

Schedule "A" to By-Law Number 2021

omission of Lessee, or Lessee's agents, contractors, employees, servants, licensees, invitees or the Lessor.

15. That it shall not make any alterations, additions or improvements to the leased premises at its own expense without first submitting the plans and specifications (including materials to be used) thereof to the Corporation and without first obtaining approval in writing of the Corporation, such approval may not be unreasonably withheld. Grove shall further covenant be responsible for any applicable fees and all applicable inspections and the costs thereof, including but not limited to, those of the Town of Essex Fire and Building Departments.

The Corporation covenants with Grove

1. To provide Grove with quiet enjoyment of the premises, and

Provided that Grove is not in breach of the terms of this Agreement, Grove may remove its fixtures, at the termination or end of this Agreement, provided such removal may be, and is done without injury to the premises.

Provided that in the event of damage to the premises by fire, lightning or tempest, rent shall cease until the premises are rebuilt.

Provided that, where the premises become vacant or inactive (other than in the normal course of business) and so remain for a period of thirty (30) days, it shall be presumed that Grove has abandoned the premises and the Corporation may take immediate possession of the premises.

Proviso for re-entry by the Corporation on non-payment of rent or non-performance of covenants, provided that such re-entry shall, at all times, be in accordance with the provisions of The Commercial Tenancies Act.

Provided Grove has not been in default during the term of this Lease and it is mutually agreeable between the Corporation and Grove, Grove shall have and is hereby granted, an option to extend the term of this Lease for an additional 2 year period upon providing such notice is in writing to the Corporation 90 days prior to the end of this Lease term, with such renewal to begin upon the expiration of the term of this Lease. If the option to lease for a further term of two years is exercised then the rental amount thereafter shall be the base rate but with the applicable Core Consumer Price Index (CPI) as of April of the current year plus Harmonized Sales Tax (HST) to be further incorporated into and added to the base rate annually commencing on the first day of May of each annual renewal of this Lease.

Provided that, if at the end of the Term of the lease or any renewal thereof, whether by effluxion of time or any other reason, the Lessor permits Lessee to remain in possession of the

Schedule "A" to By-Law Number 2021

Premises and accepts rent in respect thereto, a tenancy from year to year shall not be created by implication of law but the Lessee shall be deemed to be a monthly Lessee only subject in all respects to the provisions of this Lease.

Provided that the Corporation shall have the right to cancel this Lease Agreement at any time during the term of the Agreement for reason of any default by Lessee under this lease such default being a failure to pay rent when due or a failure to perform its covenants or any other of its obligations under this lease and such default has not been remedied within 5 days written notice of such default.

Provided further that the Corporation shall have the right to cancel this Lease Agreement at any time during the term of the Agreement as a result of declaring the building surplus or determining another use for the building, upon providing notice in writing to Grove of at least ninety (90) days.

It is hereby declared and agreed that the expressions "Corporation" and "Grove" wherever used in this Indenture, shall, when the context allows, include, be binding on and enure to the benefit of not only the parties hereto, but also their respective executors, administrators and assigns.

And it is further agreed between the parties hereto that wherever the singular and masculine are used throughout this Lease they shall be construed as if the plural or feminine had been used, where the context or the party or parties hereto so require, and the rest of the sentence shall be construed as if the grammatical and terminological changes thereby rendered had been made.

Lessor and Lessee acknowledge and agree that each has joined in and contributed to the drafting of this Lease and as a result there shall be no presumption in construing the provisions of this Lease favoring or burdening either Lessor or Lessee based upon draftsmanship or similar rule of construction. Lessor and Lessee further acknowledge and agree that each have had the opportunity to consult and obtain independent legal and professional advice in conjunction with this lease and its obligations thereto.

This Lease may be executed in any number of separate counterparts, each of which, when executed and delivered, shall be an original, but such counterparts shall together constitute one and the same document. Delivery of an executed counterpart of this Lease with a facsimile signature shall have the same binding effect as delivery of an executed original.

The following addresses are provided for the Corporation and the Grove for purposes of providing notice:

Corporation: The Corporation of the Town of Essex
33 Talbot Street South, Essex, Ontario, N8M 1A8

Schedule "A" to By-Law Number 2021

Telephone: 519-776-7336

Organization Name: The Grove Bike Co.
12 Main Street East
Kingsville, Ontario, N9Y 1A2
Attention: Kim M. Lewis
Telephone: 519-982-5000
Email: kmlewis12345@gmail.com

In Witness Whereof the said parties hereto have duly executed this Agreement.

Signed, Sealed and Delivered in the presence of:

The Grove Bike Co.

Witness as to signature of

Authorized Signing Officer

Witness as to signature of

Authorized Signing Officer

Signed, Sealed and Delivered in the presence of:

The Corporation of the Town of Essex

Witness as to signature of

Mayor, Larry Snively

Witness as to signature of

Clerk, Robert Auger

We have authority to bind the Corporation

Receipt of Lease Agreement:

I hereby acknowledge receiving a duplicate original copy of the herein Lease Agreement.

The Grove Bike Co.

Date of Signature

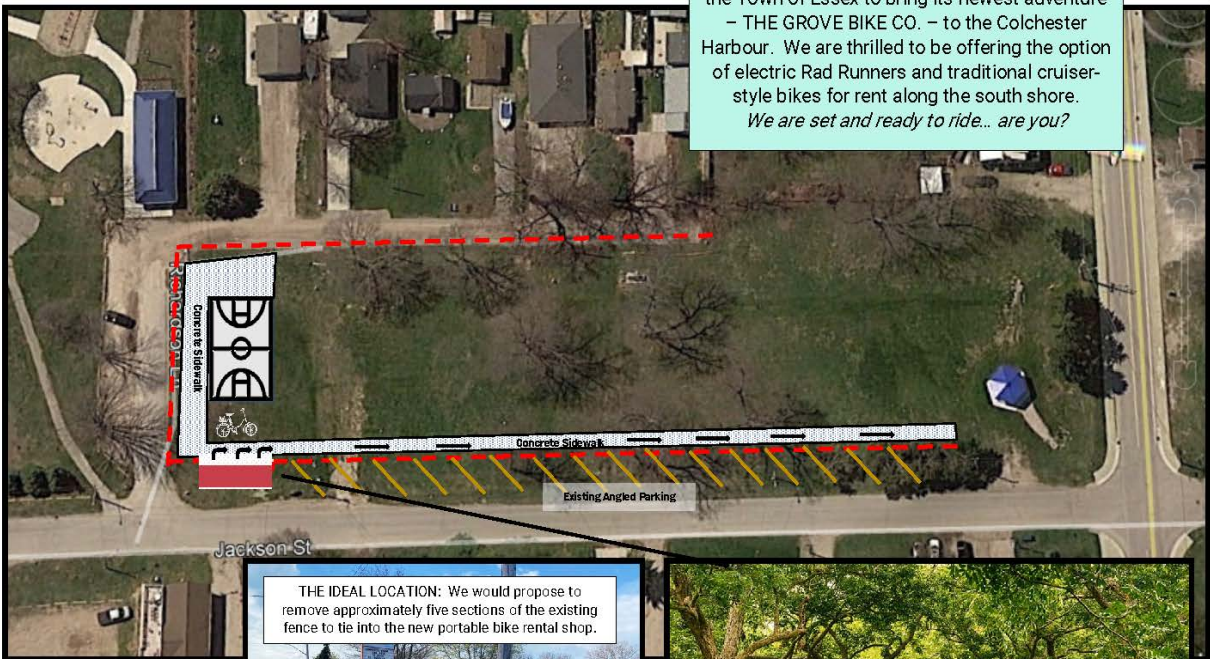
Authorized Signing Officer

Date of Signature

Authorized Signing Officer

Schedule 'A' – The Grove Bike Co. Leased Space

THE GROVE HOTEL is seeking to partner with the Town of Essex to bring its newest adventure – THE GROVE BIKE CO. – to the Colchester Harbour. We are thrilled to be offering the option of electric Rad Runners and traditional cruiser-style bikes for rent along the south shore. *We are set and ready to ride... are you?*



THE IDEAL LOCATION: We would propose to remove approximately five sections of the existing fence to tie into the new portable bike rental shop.

