

CITY OF ST. CATHARINES

BY-LAW NO. 2022-133

A by-law for the imposition of Community Benefits Charges.

WHEREAS the City of St. Catharines will experience growth through development and re-development;

AND WHEREAS Council desires to impose Community Benefits Charges against land to pay for the capital costs of facilities, services and matters required because of development or redevelopment in the area to which the by-law applies;

AND WHEREAS the *Planning Act, 1990* (the "Act") provides that the council of a municipality may by by-law impose Community Benefits Charges against higher density residential development or redevelopment;

AND WHEREAS a Community Benefits Charge strategy report has been completed which identifies the facilities, services and matters that will be funded with community benefits charges and complies with the prescribed requirements;

AND WHEREAS the Corporation of the City of St. Catharines (the "City") has consulted with such persons and public bodies as the municipality considers appropriate;

NOW THEREFORE the Council of The Corporation of the City of St. Catharines enacts as follows:

1. INTERPRETATION

1.1 This By-law may be referred to as the "Community Benefits Charges By-law".

1.2 In this By-law, the following items shall have the corresponding meanings:

"Act" means the *Planning Act*, R.S.O. 1990, CHAPTER P.13, as amended, or any successor thereof;

“Accessory Apartment” see “Residential Unit”;

“Apartment” see “Residential Unit”;

“Appraisal” means an appraisal of land value prepared in accordance with the Canadian Uniform Standards of Professional Appraisal Practice of the Appraisal Institute of Canada;

“Board of Education” means a board as defined in clause 1(1) of the Education Act 1997, S.O. 1997, c.E.2

“Building” means any structure or building as defined in the *Ontario Building Code* (O Reg 332/12 under the Building Code Act, as amended from time to time or any successor thereof) but does not include a vehicle;

“Building Code Act” means the *Building Code Act, 1992*, SO 1992, c 23, as amended, or any successor thereof;

"Building Permit" means a permit issued pursuant to the Building Code Act that permits the construction, alteration or change in use of a building or structure which is described in its respective building permit application.

"Building Permit Application" means an application submitted to and accepted by the Chief Building Official of the City for a Building Permit which complies with the applicable Zoning-Bylaw and with all technical requirement of the Building Code Act and includes payment of all applicable fees.

"Chief Building Official" means a chief building official for the City appointed or constituted under section 3 of the Building Code Act or their designate.

“Capital Costs” means costs incurred or proposed to be incurred by the City or a Local Board thereof directly or by others on behalf of, and as authorized by, the City or Local Board,

(a) to acquire land or an interest in land, including a leasehold interest,

- (b) to improve land,
- (c) to acquire, lease, construct or improve buildings and structures,
- (d) to acquire, construct or improve facilities including,
 - (i) furniture and equipment, and;
 - (ii) rolling stock.
- (e) to undertake studies in connection with any of the matters referred to in clauses (a) to (d) above, including the Community Benefits Charge strategy study,

required for the provision of Services designated in this By-law within or outside the City, including interest on borrowing for those expenditures under clauses (a) to (e) above;

“City” means The Corporation of the City of St. Catharines or the geographic area of the municipality, as the context requires;

“Community Benefits Charge” means charge(s) permitted by the Planning Act and imposed by this By-law against land to pay for the Capital Costs of Facilities, Services and Matters required because of Development or Redevelopment in the area to which the by-law applies;

“Community Benefits Charge Strategy” means the community benefits strategy prepared by the City in accordance with the Planning Act and approved by Council;

“Council” means the Council of the Corporation of the City of St. Catharines;

“Development” means the construction, erection, or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof or any development requiring any of the actions described in section 3.4(a), and

includes Redevelopment;

“Facilities, Services and Matters” are the facilities, services and matters described in the Community Benefits Charge Strategy;

“Ground” means the average level of finished grade adjoining a building or structure at all exterior walls;

“Local Board” means a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of the City, excluding a school board and a conservation authority;

“Mixed-use Development” means a Building used, designed or intended for use for both Residential and Non-residential Uses;

“Owner” means the owner of land or a person who has made application for an approval for a Development for which a Community Benefits Charge may be imposed;

"In-Kind Contribution" means facilities, services or matters identified in a Community Benefits Strategy and required because of Development or Redevelopment provided by an Owner of land, in lieu of payment of the Community Benefits Charge otherwise applicable, in whole or in part, and requiring any of the actions described in sections 3.17 to 3.21;

“Prescribed” means prescribed in the regulations made under the Act;

“Redevelopment” means the construction, erection or placing of one or more Buildings on land where all or part of a Building has previously been demolished on such land, or changing the use of a Building from a Non-Residential Use to a Residential Use, or changing a Building from one form of Residential Use to

another form of Residential Use and including any development or redevelopment requiring any of the actions described in section 3.4(a);

“Residential Unit” means a room or group of rooms occupied or designed to be occupied exclusively as an independent and separate self-contained housekeeping unit including a house;

(a) “Accessory Apartment” means a Residential Unit located within and subordinate to an existing Detached Dwelling, Semi-Detached Dwelling, Townhouse and a Multiple Attached Dwelling;

(b) “Apartment Building” means a Building consisting of 10 or more Residential Units, where access to each unit is obtained through a common entrance or entrances from the Street level and subsequently through a common hall or halls, and “Apartment” means a Residential Unit in an Apartment Building;

“Residential Use” means land, Buildings or structures of any kind whatsoever used or designed or intended for use as living accommodations for one or more individuals;

“Service” means a service designated in section 2.1, and “Services” shall have a corresponding meaning;

“Storey” means a level of a building, other than a basement, located between any floor and the floor, ceiling or roof immediately above it.

“Valuation Date” means, with respect to land that is the subject of Development or Redevelopment,

(a) the day before the day the Building Permit is issued in respect of the Development or Redevelopment, or

(b) if more than one Building Permit is required for the development or redevelopment, the day before the day the first permit is issued.

“Zoning By-Law” means City of St. Catharines By-law Number 2013-283, as amended, or any successor thereof.

- 1.3 Community Benefit Charge applies to and shall be payable for the Capital Cost of facilities, Services, and matters required for Development and Redevelopment of all lands in the geographic area of the City of St. Catharines.
- 1.4 The Community Benefit Charge shall be imposed on all Development and/or Redevelopment of a Building or structure with five or more storeys and that adds ten or more residential units.
- 1.5 Nothing in this By-law shall be construed so as to commit or require the City or its Council to authorize or proceed with any specific capital project at any specific time.
- 1.6 The onus is on the Owner to produce evidence to the satisfaction of the City establishing that the Owner is entitled to an exemption under the provisions of this by-law.
- 1.7 Any reference in this By-law to any statute or regulation or any section of any statute or regulation shall, unless otherwise expressly stated, be deemed to be a reference to such statute, regulation or section as amended, restated or re-enacted from time to time and to any successor legislation or regulation. Any defined term in the Planning Act that has not been defined in this By-law, shall have the meaning given to it in the Planning Act.

2. DESIGNATION OF SERVICES

- 2.1. A Community Benefits Charge may be imposed in respect of the following:
 - (a) land for park or other public recreational purposes in excess of lands dedicated or provided cash-in-lieu payments under section 42 or 51.1 of the Planning Act.
 - (b) services not provided under section 2(4) of the Development Charges Act, as amended, or any successor thereof.

- (c) capital costs for eligible development charges services that are not intended to be funded under the City's development charge by-law.

3. APPLICATION OF BY-LAW RULES

3.1. Community Benefits Charges shall be payable in the amounts set out in this By-law where:

- (a) the lands are located in the area described in section 3.2; and
- (b) the Development requires any of the approvals set out in section 3.4(a).

Area to Which By-law Applies

3.2. Subject to section 3.3, this By-law applies to all lands in the City.

3.3. This By-law shall not apply to lands that are owned by and used for the purposes of:

- (a) the City or a Local Board;
- (b) a Board of Education;

Approvals for Development

3.4 (a) A Community Benefits Charge may be imposed only with respect to development or redevelopment that requires:

- (i) the passing of a Zoning By-Law or of 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 9 of the *Condominium Act, 1998*, SO 1998, c 19, as amended, or any successor thereof;
or
 - (vii) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.
- (b) Despite 3.4(a) above, a Community Benefits Charge may not be imposed with respect to:
- (i) development of a proposed building or structure with fewer than five storeys at or above ground;
 - (ii) development of a proposed building or structure with fewer than 10 residential units;
 - (iii) redevelopment of an existing building or structure that will have fewer than five storeys at or above ground after the redevelopment;
 - (iv) redevelopment that proposes to add fewer than 10 residential units to an existing building or structure; or
 - (v) such types of development or redevelopment as are Prescribed.

Exemptions

- 3.5 Notwithstanding the provisions of this By-law, Community Benefits Charges shall not be imposed with respect to:
- (a) Development or redevelopment of a building or structure intended for use as a long-term care home within the meaning of subsection 2 (1) of the Long-Term Care Homes Act, 2007, as amended or any successor legislation thereof;
 - (b) Development or redevelopment of a building or structure intended for use as a retirement home within the meaning of subsection 2 (1) of the Retirement Homes Act, 2010, as amended or any successor legislation thereof;

- (c) Development or redevelopment of a building or structure intended for use by any of the following post-secondary institutions for the objects of the institution;
 - (i) a university in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario;
 - (ii) a college or university federated or affiliated with a university described in subparagraph (i);
 - (iii) an Indigenous Institute prescribed for the purposes of section 6 of the Indigenous Institutes Act, 2017, as amended or any successor legislation thereof;.

- (d) Development or redevelopment of a building or structure intended for use as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion.;

- (e) Development or redevelopment of a building or structure intended for use as a hospice to provide end of life care;

- (f) Development or redevelopment of a building or structure intended for use as residential premises by any of the following entities:
 - (i) a corporation to which the Not-for-Profit Corporations Act, 2010, as amended or any successor legislation thereof applies, that is in good standing under that Act and whose primary object is to provide housing,
 - (ii) corporation without share capital to which the Canada Not-for-profit Corporations Act as amended or any successor legislation thereof applies, that is in good standing under that Act and whose primary object is to provide housing,
 - (iii) a non-profit housing co-operative that is in good standing under the Co-operative Corporations Act. O. Reg 509/20, s. 1, 8, as amended or any successor legislation thereof;

Amount of Charge

- 3.6 The amount of a Community Benefits Charge payable in any particular case shall be four (4) percent of the value of the land as of the Valuation Date.
- 3.7 Land referred to in this By-law means the extent of the Parcel or Parcels on which the Development or Redevelopment is occurring.
- 3.8 If a Development or Redevelopment consists of two or more above grade Buildings that will not be constructed concurrently and are anticipated to be completed at different times, each phase of the Development or Redevelopment is deemed to be a separate Development or Redevelopment for the purposes of this By-law including without limitation the calculation and payment of Community Benefits Charges. For the purposes of this subsection an above grade shared podium structure will not be considered part of a Building.
- 3.9 If a Development or Redevelopment is partially comprised of a use described in subsections 3.5 (Exemptions), the portion of the Development or Redevelopment comprised of such use will not be considered part of the Development or Redevelopment and only the portion of the Development or Redevelopment that does not contain a use described in subsections 3.5 (Exemption) will be considered for the determination of whether a Community Benefits Charge is payable pursuant to this By-law and the Community Benefit Charge otherwise payable for the Development or Redevelopment will be reduced by an amount attributed to the value of the exempt portion of Development or Redevelopment.
- 3.10 No person shall construct a building on the land proposed for Development or Redevelopment unless:
- (a) The payment required by the Community Benefits Charge By-law has been made or arrangements for the payment, including any in-kind contribution where permitted, that are satisfactory to Council have been made; and

(b) Any facilities, services or matters being provided in accordance with subsection 37(6) of the Act have been provided or arrangements for their provision that are satisfactory to Council have been made.

- 3.11 The Owner shall provide the City with an appraisal of the value land as of the valuation date, or dated within a period of one year preceding the valuation day.
- 3.12 If the City disputes the value of land identified in the owner's appraisal, then the City shall provide the owner with an appraisal of the value of the land as of the valuation date within the Prescribed time period of receiving the Owner's appraisal, and subsections 37(37) to (41) of the Planning Act apply.

In-Kind Contributions

- 3.13 The City may, in its sole discretion, allow an owner of land to provide to the municipality facilities, services or matters required because of development or redevelopment in the area to which the by-law applies, in return for a deduction from the Community Benefits Charges payable subject to the Owner and the City entering into an agreement on such terms and conditions satisfactory to the City.
- 3.14 Before the owner of land provides facilities, services or matters in accordance with subsection 3.13, the City shall advise the owner of land of the value that will be attributed to them.
- 3.15 The value attributed under subsection 3.14 shall be deducted from the amount the owner of land would otherwise be required to pay under this by-law. If the value attributed exceeds the Community Charges Benefits Charge payable, the excess value shall not be paid to the Owner providing the Facilities, Services or Matters and no credit shall be provided to the Owner. If the value attributed is less than the Community Benefits Charge payable, the Owner shall pay the difference to the City in accordance with section 3.6 herein.

Time of Payment of Community Benefits Charges

- 3.16 Community Benefits Charges imposed under this By-law are calculated, payable, and collected upon issuance of a Building Permit for the Development.
- 3.17 If a Development or Redevelopment is to be constructed in phases, each phase of the Development is deemed to be a separate Development or Redevelopment for the purposes of this by-law and the amount of the Community Benefit Charge for each phase will be 4% of the value of the land of that phase on the day before the first Building Permit for Development or Redevelopment of that phase is issued.

Interest on Refunds

- 3.18 If it is determined that a refund is required, the City shall pay interest on a refund under subsections 37 (28) and 37 (29) of the Act at a rate not less than the Prescribed minimum interest rate, from the day the amount was paid to the municipality to the day it is refunded.

4. SEVERABILITY

- 4.1 If, for any reason, any provision of this By-law is held to be invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

5. DATE BY-LAW IN FORCE

- 5.1. This By-law shall come into force and effect on September 1, 2022.
- 5.2. This By-law shall apply to building permits issued on or after the day it is passed and in respect of Development or Redevelopment described in in this By-law.

Read and passed this

18 day of July

2022.



CLERK



MAYOR