

Being a By-law to establish the Community Benefits Charges By-law 50-2023 (“By-law”) for the Corporation of the City of Oshawa.

WHEREAS

1. The Corporation of the City of Oshawa (the “City”) will experience growth through development and re-development;
2. 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 this By-law applies;
3. The Planning Act, R.S.O. 1990, c. P. 13 (the “Planning Act”) authorizes the Council for the City of Oshawa to by by-law impose Community Benefits Charges against higher density residential development or redevelopment;
4. The City’s Community Benefits Charge Strategy dated December 28, 2022, has been completed, including consultation with the public and such person and public bodies as the City considers appropriate, which identifies the facilities, services, and matters that will be funded with Community Benefits Charges and complies with the prescribed requirements;
6. On April 3, 2023, Council for the City of Oshawa approved the Community Benefits Charge Strategy Report dated December 28, 2022, in which certain recommendations were made relating to the Community Benefits Strategy and By-law.

NOW THEREFORE the Council of The Corporation of the City of Oshawa hereby enacts as follows:

1. INTERPRETATION

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

“Act” or “Planning Act” means the Planning Act, R.S.O. 1990, c. P.13;

“Affordable Residential Unit” means a residential unit that meets the criteria set out in subsection 4.1 of the Planning Act;

“Apartment” means a dwelling unit in an apartment building;

“Apartment Building” for the purposes of this By-Law means a residential building or portion of a mixed use building of 5 or more storeys at or above grade and consisting of 10 or more apartment units.

“Attainable Unit” means a residential unit that that meets the criteria set out in subsection 4.1 of the Planning Act;

“Bedroom” means a habitable room used or capable of use for sleeping accommodation, including a den, study, or other similar area, but excluding a living room, dining room, kitchen, family room, utility room, recreational room, bathroom, sunroom, or porch;

“Building” means any structure or building as defined in the Ontario Building Code (Ontario Regulation 332/12 under the Building Code Act, 1992;

“Building Code Act, 1992” means the Building Code Act, 1992, SO 1992, c 23 as amended;

“Capital Costs” means growth-related 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, 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 Oshawa or the geographic area of the municipality, as the context requires;

“Community Benefits Charge” means a charge imposed pursuant to this By-law;

“Council” means the Council of the Corporation of the City of Oshawa;

“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 subsection 2.4(a) of this By-law, and includes Redevelopment;

“Dwelling Unit” means a room or a series of rooms containing toilet and culinary facilities designed for Residential use as a single housekeeping establishment;

“Grade” means the average level of proposed or finished ground adjoining a building at all exterior walls.

“Land” means any parcel, partial or full, of property within the City of Oshawa geographic area;

“Non-profit Housing Development” means development of a Building or structure intended for use as residential premises by:

(a) a corporation to which the Not-for-Profit Corporations Act, 2010, S.O. 2010, c. 15 (“Not-for-Profit Corporations Act”) applies, that is in good standing under that Act and whose primary objective is to provide housing;

(b) a corporation without share capital to which the Canada Not-for-profit Corporations Act, S.C. 2009, c. 23 (“Canada Not-for-profit Corporations Act”) applies, that is in good standing under the Canada Not-for-profit Corporations Act and whose primary objective is to provide housing; or

(c) a non-profit housing co-operative that is in good standing under the Cooperative Corporations Act, R.S.O. 1990, c. C.35.

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

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

“Redevelopment” means the construction, erection or placing of one or more Buildings on Land where all or part of a Building on such Land has previously been demolished, 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 subsection 2.4(a) of this By-law;

“Residential Unit” means a room or suite of rooms used, or designed or intended for use by one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;

“Residential Use” means land, buildings or structures of any kind whatsoever or any portion thereof, that are being used, designed or intended to be used for one or more individuals as living accommodations or combined live/work accommodations.

“Service” means a service designated in subsection 1.3 of this By-law, and “Services” shall have a corresponding meaning;

“Storey” means the portion of a Building, excluding roof top enclosure space used for no other purpose than roof top access, and/or elevators and other building service equipment, that is:

- (a) that is situated between the top of any floor and the top of the floor next above it, or
- (b) that is situated between the top of the floor and the ceiling above the floor, if there is no floor above it.

“Zoning By-Law” means the City’s Zoning By-law 60-04, as amended including any by-laws enacted by the City under section 34 of the Act.

The reference to any applicable statute, regulation, by-law, or to the Official Plan in this Community Benefits Charge By-law shall be deemed to refer to the statute, regulation, by-law, and/or Official Plan as they may be amended from time to time and shall be applied as they read on the date on which Community Benefits Charges are due to the City.

DESIGNATION OF SERVICES

1.2 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 cash-in-lieu payments made under section 42 or subsection 51.1 of the Planning Act.
- (b) Services not provided under subsection 2 (4) of the Development Charges Act, 1997, S.O. 1997, c. 27 (“Development Charges Act”).
- (c) As per the Community Benefits Charges Strategy, the City’s Capital Costs will be recovered via the following services through this By-law:
 - (i) Municipal-wide Services (municipal parking, by-law services, corporate initiatives, information technology, and workforce strategic planning);
 - (ii) Animal Control;
 - (iii) Community Benefits Charge Strategies;
 - (iv) Library Services; and
 - (v) Solid Waste Management Services.

2. PAYMENT OF COMMUNITY BENEFITS

2.1 Community Benefits Charges shall be payable by the Owner of Land for Development in the amounts set out in this By-law where:

- (a) the Land proposed for Development is located in the area described in subsection 3.2; and
- (b) the proposed Development requires any of the approvals set out in subsection 2.4(a).

Area to Which By-law Applies

2.2 Subject to subsection 2.3, this By-law applies to all Lands in the City.

2.3 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 thereof;
- (b) a Board of Education;

(c) The Region of Durham, or a Local Board thereof.

Approvals for Development

2.4 (a) A Community Benefits Charge shall be imposed only with respect to Development that requires one or more of the following approvals:

- (i) the passing of a City Zoning By-Law or of an amendment to a City 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 ("Condominium Act, 1998"), 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 subsection 2.4 (a) above, a Community Benefits Charge shall 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.

(c) For the purposes of this section, the first Storey at or above-ground is the Storey that has its floor closest to Grade and its ceiling more than 1.8m above Grade.

Exemptions

2.5 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, S.O. 2007, c.8 ("Long-Term Care Homes Act, 2007")

(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, S.O. 2010, c. 11 ("Retirement Homes Act, 2010");

(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, S.O. 2017, c. 34, Sched. 20 ("Indigenous Institutes Act, 2017").

(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 a residential premises in a Non-profit Housing Development;

(g) The following shall be exempt from payment of the Community Benefits Charge:

(i) Affordable residential units;

(ii) Inclusionary zoning residential units that are affordable residential units required to be included in a Development or Redevelopment pursuant to a by-law passed under section 34 of the Planning Act; and

(iii) Attainable residential units.

Amount of Charge

2.6 The amount of a Community Benefits Charge payable in any particular case shall be determined based on the charges set out in Schedule "A" to this By-law.

In-Kind Contributions

2.7 The City may, at its discretion, allow an Owner of Land to provide to the City facilities, services or matters required because of Development or Redevelopment in the area to which the By-law applies in lieu, or partially in lieu of a Community Benefits Charge that would otherwise be payable.

2.8 For in-kind contributions pursuant to the preceding subsection to be considered, an application for consideration of in-kind contributions must be submitted to the City with supporting documentation as to the suggested value thereof no less than 180 days prior to the first building permit being granted for the proposed Development or Redevelopment.

2.9 In-kind contributions pursuant to subsection 2.7 shall only be accepted as if the same are approved by resolution of Council. The determination of Council as to whether in-kind contributions shall be accepted in full or partial satisfaction of Community Benefits Charges shall be final and binding.

2.10 The value attributed to an in-kind contribution under subsection 2.7 shall be as determined by Council, based on one or more third-party valuations to the satisfaction of Council. Council's determination of the value to be attributed to any in-kind contribution shall be final and binding.

Time of Payment of Community Benefits Charges

2.11 Community Benefits Charges imposed under this By-law shall be payable prior to the issuance of any building permit for the proposed Development or Redevelopment.

Interest on Refunds

2.12 If it is determined that a refund is required, the City shall pay interest on a refund in accordance with subsections 37(28) and 37(29) of the Planning 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.

Indexing

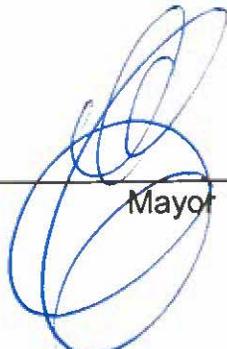
2.13 The Community Benefits Charges referred to in Section 2.6 of this By-law shall be adjusted annually at the rate of 3%, on the anniversary date of the By-law, without amendment to this By-law.

3. **SEVERABILITY**

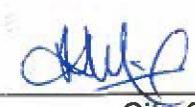
3.1 If, for any reason, any provision of this By-law is held to be invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

4. **DATE BY-LAW IN FORCE**

4.1 This By-law shall come into effect this first day of May, 2023.



Mayor



City Clerk

Schedule "A"
Schedule of Community Benefits Charges

Development Type	C.B.C. per Dwelling Unit
2 Bedroom +	\$147
Bachelor and 1 Bedroom	\$90
