

**THE CORPORATION OF THE TOWN OF WHITCHURCH-STOUFFVILLE**

**BY-LAW NUMBER 2024-086-FI**

BEING A BY-LAW to enact the Community Benefits Charges pursuant to Section 37 of the Planning Act.

**Whereas** section 37 of the Planning Act provides that the council of a municipality may by by-law impose community benefits charges against land to pay for capital costs of services required because of development or redevelopment; and

**Whereas** pursuant to subsection 37(9) of the Planning Act, Council passed a Community Benefits Charge Strategy, which identifies the services that will be funded with Community Benefits Charges and complies with prescribed requirements; and

**Whereas** pursuant to subsection 37(10) of the Planning Act, the Town consulted with stakeholders and held public consultation meetings on May 22, 2024 and June 5, 2024, in preparing the Community Benefits Charge Strategy; and

**Whereas Council** desires to impose Community Benefits Charges against land to pay for capital costs of services required because of development and redevelopment;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF WHITCHURCH-STOUFFVILLE 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 Development Charges Act, 1997;

“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 meets the criteria set out in subsection 4.1 of the Development Charges Act, 1997;

“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;

“Building Permit” means a permit issued under the Building Code Act, 1992, which permits the construction of a building or structure or, which permits the construction of the foundation of a building or structure, but does not include a building permit for site servicing, shoring or excavation work issued under the Building Code Act, 1992;

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

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

“Council” means the Council of the Corporation of the Town of Whitchurch-Stouffville;

“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" shall mean a room or a group of rooms in a dwelling used or intended to be used as a single, independent, and separate housekeeping unit in which a kitchen and sanitary facilities are provided, and which has a private entrance from outside the dwelling or from a common hallway or stairway inside the dwelling. For the purposes of this by-law, the terms 'Dwelling Unit' and 'Residential Unit' have the same meaning.

“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 Town of Whitchurch-Stouffville 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;

“Parcel” means a lot or parcel of land which can be legally conveyed pursuant to the Planning Act;

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

“Town” means The Corporation of the Town of Whitchurch-Stouffville;

“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 any by-law enacted by the Town under section 34 of the Planning 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 Town.

### **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 payment-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 Town’s Capital Costs will be recovered via the following services through this By-law:
  - (i) Parks and Recreation Services; and
  - (ii) Community Benefits Charge Strategies.

## **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 2.2; 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 Town.

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

- (a) The Town or a Local Board thereof;
- (b) a Board of Education;
- (c) The Region of York, 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 Town Zoning By-Law or of an amendment to a Town 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 (5) storeys at or above ground;
  - (ii) Development of a proposed building or structure with fewer than ten (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 it’s 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 the Fixing Long-Term Care Act, 2021, S.O. 2021, c.39, sched 1;
- (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) Development of 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*;
- (h) Development of:
  - (i) Affordable residential units; and
  - (ii) Attainable residential units.

#### Amount of Charge

2.6 The amount of a Community Benefits Charge payable in any particular case shall be determined as follows:

- (a) Where there is Development or Redevelopment other than that described in subsection 2.4(b) and which requires one or more of the approvals set out in subsection 2.4(a), on land to which this By-law applies, the Community Benefits Charges payable pursuant to this By-law shall be four (4) percent of the value of the land being developed as of the Valuation Date.
- (b) Land referred to in subsections 2.6(a) and 2.6(c) means the entire Parcel or Parcels on which the Development or Redevelopment is occurring regardless of whether the Development or Redevelopment is only on a part of the Parcel or Parcels or is a phase of a Development or Redevelopment.

- (c) If a Development or Redevelopment consists of two or more above grade Buildings that will not be constructed concurrently, will be subject to separate building permits 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. The Community Benefits Charges for the first of the above grade Buildings will be calculated in accordance with subsection 2.6(a). For each subsequent above grade Building the Community Benefits Charges Payable shall be calculated as follows:

4% of the value of the land being developed as of the Valuation Date minus the Community Benefits Charges Payable for the previous above grade Building(s)

If the difference in the aforesaid calculation is zero or a negative value no Community Benefits Charge is payable, and no credit or refund will be payable.

- (d) Notwithstanding subsections (a), (b), or (c), the amount of a Community Benefits Charge payable in any particular case shall not exceed an amount equal to the prescribed percentage of the value of the land, as of the valuation date, multiplied by the ratio of "A" to "B" where,

"A" is the floor area of any part of a building or structure, which part is proposed to be erected or located as part of the development or redevelopment, and

"B" is the floor is the floor area of all buildings and structures that will be on the land after the Development or Redevelopment.

#### In-Kind Contributions

- 2.7 The Town may, at its discretion, allow an Owner of Land to provide to the Town 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 Town 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 Town 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.

**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 the 26<sup>th</sup> day of June, 2024.

READ a first and second time this 26<sup>th</sup> day of June, 2024.

READ a third time and passed this 26<sup>th</sup> day of June, 2024.

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Iain Lovatt, Mayor

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Becky Jamieson, Clerk