

A By-law to provide for the payment of Community Benefit Charges

WHEREAS Section 37 of the *Planning Act* (the “Act”) provides that the council of a municipality may by by-law impose community benefits charges against land to pay for the capital costs of facilities, services and matters required because of development or redevelopment;

AND WHEREAS a community benefits charge strategy was prepared in accordance with subsection 37(9) and O. Reg. 509/20 and identifies the facilities, services and matters that will be funded with community benefits charges;

AND WHEREAS the City consulted with stakeholders and held a public meeting on the community benefits charge strategy;

AND WHEREAS City Council is desirous of imposing community benefits charges against land to fund the facilities, services and matters identified in the community benefits charge strategy required because of development or redevelopment;

NOW THEREFORE Council enacts as follows:

DEFINITIONS

1. In this By-law,

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;

Building Code Act means the *Building Code Act, 1992*, S.O. 1992, c.23;

Building Permit means a permit issued under the Building Code Act to construct, alter or change the use of a building or structure;

City means The Corporation of the City of Mississauga or where the context requires the geographical jurisdiction of The Corporation of the City of Mississauga;

Commissioner means the Commissioner of Corporate Services and Chief Financial Officer;

Community Benefits Charge Strategy or **CBC Strategy** means a community benefits charge strategy prepared in accordance with subsection 37(9) of the Planning Act and the Regulation;

Condominium Act means the *Condominium Act, 1998*, S.O. 1998, c.19;

Council means the elected council of the City;

Development means:

- (1) creating a new lot(s),
- (2) constructing or placing one or more buildings or structures on land,

- (3) adding to or altering a building or structure that has the effect of increasing the size and usability thereof,
- (4) redevelopment, whether or not the land is already serviced, or
- (5) proposed activity that requires any of the approvals described in section 3;

First Storey means the storey of a building, structure or part thereof, that has its floor closest to the ground and its ceiling more than 1.8 m above the ground;

Ground means, with reference to a building, structure or part thereof, the average elevation of the finished grade of the ground immediately surrounding such building or structure;

Gross Floor Area means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above ground adjoining the building at its exterior walls;

In-Kind Contribution means facilities, services or matters identified in a CBC 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;

Planning Act means the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

Redevelopment means constructing or placing one or more buildings or structures on land where all or part of a building or structure has been previously demolished, or changing the use of a building or structure from a non-residential use to a residential use;

Regulation means Ontario Regulation 509/20;

Residential Unit means a unit that, (a) consists of a self-contained set of rooms located in a building or structure, (b) is used or intended for use as residential premises, and (c) contains kitchen and bathroom facilities that are intended for the use of the unit only;

Storey means the portion of a building that is situated between the top of any floor and the top of the floor next above it, and if there is no floor above it, that portion between the top of the floor and the ceiling above it;

Valuation Date, with respect to land that is the subject of development or redevelopment,

- (1) the day before the day the building permit is issued in respect of the development, or
- (2) if more than one building permit is required for the development, the day before the day the first permit is issued.

APPLICATION

2. This By-law applies to all lands in the City, except land that is owned by and used for the purposes of
 - (a) the City or any local board thereof;
 - (b) a Board of Education; or

(c) the Regional Municipality of Peel or any local board thereof,
and a community benefits charge shall be payable for the capital costs of facilities, services and matters required because of development and redevelopment.

3. The community benefits charge shall be imposed on land proposing development or redevelopment described in section 4 that requires
 - (a) any of the following approvals under the Planning Act:
 - i. the passing of a zoning by-law or of an amendment to a zoning by-law under section 34;
 - ii. the approval of a minor variance under section 45;
 - iii. a conveyance of land to which a by-law passed under subsection 50 (7) applies;
 - iv. the approval of a plan of subdivision under section 51;
 - v. a consent under section 53;
 - (b) the approval of a description under section 9 of the Condominium Act; or
 - (c) the issuing of a permit under the Building Code Act in relation to a building or structure.
4. The community benefits charge is payable on
 - (a) Development of proposed buildings or structures that are five or more storeys at or above ground and contain ten (10) or more residential units; and
 - (b) Redevelopment of existing buildings or structures that will be five or more storeys at or above ground after the redevelopment and add ten (10) or more residential units to an existing building or structure.

Excluded Types of Development and Redevelopment

5. Notwithstanding section 4, no community benefits charge is payable on development or redevelopment of a building or structure, or part thereof, intended for the following uses:
 - (a) long-term care home within the meaning of subsection 2 (1) of the *Long-Term Care Homes Act, 2007*;
 - (b) retirement home within the meaning of subsection 2 (1) of the *Retirement Homes Act, 2010*;
 - (c) 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*;
 - (d) memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion;

- (e) hospice to provide end of life care;
- (f) residential premises by any of the following entities:
 - i. a corporation to which the *Not-for-Profit Corporations Act, 2010* applies that is in good standing under that Act and whose primary object is to provide housing,
 - ii. a corporation without share capital to which the *Canada Not-for-profit Corporations Act* 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*;
- (g) a home for special care within the meaning of the *Homes for Special Care Act, R.S.O 1990, c. H.12*; and
- (h) any additional uses prescribed by the Regulation.

COMMUNITY BENEFITS CHARGE

No Building Without Payment

- 6. No person shall construct a building on land proposed for development or redevelopment described in section 4, and no building permit shall be issued, unless the community benefits charge payment required by this by-law, including any in-kind contributions where permitted, have been made or satisfactory arrangements for the payment or their provision have been made.

Determination of Charge

- 7. The amount of the community benefits charge is four percent (4%) of the value of the land that is the subject of development or redevelopment as of the valuation date.
- 8. If a development or redevelopment consists of two or more phases, each phase is deemed to be a separate development or redevelopment and
 - (a) the valuation date for each phase will be the first building permit for that phase; and
 - (b) the community benefits charge payable for each phase will be 4% of the value of the land of that phase.

Multiple Uses – Excluded Types of Development

- 9. Where development or redevelopment proposes multiple uses within a building or structure and the owner has provided satisfactory evidence to the Commissioner of Planning and Building or his/her designate that it includes one or more of the excluded types of development described in section 5, the community benefits charge otherwise payable for the development or redevelopment will be reduced by an amount attributed to the value of the gross floor area of the excluded type of development.

In-kind Contributions

10. Where Council has allowed an owner of land to provide an in-kind contribution and arrangements for its provision satisfactory to Council have been made, the community benefits charge otherwise payable for the development or redevelopment will be reduced by the value attributed by the City to the in-kind contribution.

Payment of Charge

11. The community benefits charge shall be paid prior to the first building permit being issued for the development or redevelopment, or in accordance with the terms of an arrangement satisfactory to the Commissioner for the payment or to Council for the provision of in-kind contributions, as the case may be.
12. Arrangements satisfactory to the Commissioner for payment or to Council for the provision of in-kind contributions may include a requirement for an owner of land to enter into an agreement with the City, on terms satisfactory to the Commissioner and the City Solicitor, including without limitation a requirement to post securities and register any related restrictions on title to the land.

Payment under Protest and Dispute Resolution

13. Where an owner of land is of the view that the amount of the community benefits charge exceeds four percent (4%) of the land value at the valuation date, the owner shall pay the charge under protest and within thirty (30) days provide the Commissioner with an appraisal of the value of land as of the valuation date.
14. If an owner of land pays under protest but does not provide an appraisal within thirty (30) days, the payment is deemed not to have been made under protest.
15. If the City does not dispute the owner's appraisal, the City shall refund to the owner the difference between the amount paid and four percent (4%) of the land value determined by the owner's appraisal.
16. 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 45 days of receiving the owner's appraisal, and subsection 37(37)-(41) of the Planning Act apply.

REFUNDS

17. Refunds of community benefits charges that have been paid will be made, without interest, where:
 - a. a refund is owing to the owner pursuant to the outcome of dispute resolution undertaken in accordance with section 13-16 of this By-law;

- b. a building permit that was issued for which community benefits charges were paid is subsequently cancelled by the City;
 - c. community benefits charges have been paid on the issuance of a building permit and a reduction in accordance with sections 9 or 10 is subsequently identified, and the owner makes a written request to the Commissioner that the amount of the reduction be refunded; or
 - d. a clerical or factual error, including the transposition of figures, a typographical or similar error, has occurred with respect to the calculation of a community benefits charge which resulted in an overpayment to the City.
18. For greater certainty, notwithstanding any determination pursuant to Section 17 that a refund of a community benefits charge is owing, no refunds will be made for any administrative fees or costs incurred by the owner related to the determination or payment of a community benefits charge.

ADMINISTRATION AND ENFORCEMENT

19. The Commissioner, or their designate as identified by the Commissioner in writing from time to time with such powers and authority as described by the Commissioner, is delegated authority for the implementation and administration of this By-law, in accordance with any corporate policies approved by Council.
20. Where the Commissioner has, in their sole discretion, permitted an owner to make alternate payment arrangements of a community benefits charge, the Commissioner and the City Clerk are hereby authorized to execute agreements on behalf of the City providing for satisfactory payment arrangements in a form and with contents satisfactory to the Commissioner and the City Solicitor without the need for further by-law or Council resolution.
21. The Commissioner shall report annually to Council on:
- (a) the prescribed matters contained in section 7 of the Regulation, and
 - (b) funding recommendations to spend or allocate at least 60 per cent of the monies in the special account at the beginning of the year.

GENERAL

22. Each provision of this By-law continues in force until amended, repealed or replaced (by by-law or by a resolution of the Council confirmed by by-law).
23. Should any part of this By-law be determined by a court of competent jurisdiction to be invalid or of no force, it is the stated intention of Council that such invalid part of this By-law shall be severable from this By-law and that the remainder of this By-law, including the remainder of each Schedule, as applicable, shall continue to operate and be in force.

24. Words importing the singular number shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law otherwise requires.
25. A citation of or reference to a by-law or other enactment, including reference to a corporate policy, is deemed to be a citation of or reference to the by-law, enactment or policy as amended or updated from time to time.

ENACTMENT

26. This By-law shall come into force on June 23, 2022.
27. This By-law shall apply to building permits issued on or after June 23, 2022 in respect of development or redevelopment described in Section 4, except for development or redevelopment whose first building permit was issued prior to that date.
28. Council shall review this by-law and pass a resolution declaring whether a revision to the by-law is needed within five years of the date it is first passed, and every five years after the previous resolution was passed.
29. This By-law may be referred to as the “Community Benefits Charges By-law”.

ENACTED and **PASSED** this XX day of XX, 2022