



**THE CORPORATION OF THE TOWN OF OAKVILLE
BY-LAW NUMBER 2022-069**

A by-law to establish community benefits charges generally for
The Corporation of the Town of Oakville

WHEREAS subsection 37(2) of the *Planning Act*, R.S.O. 1990, CHAPTER P.13 (hereinafter “the Act”) provides that the council of a municipality may by by-law impose community benefits charges against land to pay for capital costs of facilities, services and matters required because of development or redevelopment;

AND WHEREAS the Town of Oakville has prepared a Community Benefits Charge Strategy in accordance with subsection 37(9) of the Act and O.Reg. 509/20 which identifies the facilities, services and matters that will be funded with community benefits charges;

AND WHEREAS the Town of Oakville has consulted with such persons and public bodies as the Town of Oakville considers appropriate;

AND WHEREAS the Council of the Town of Oakville 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;

COUNCIL ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law,
 - (1) *Act* means the *Planning Act*, R.S.O. 1990, CHAPTER P.13, as amended or successor legislation;
 - (2) *basement* refers to the portion of the building between the *first storey* and any floor below the level of the first floor;
 - (3) *Building* refers to any structure or building as defined in the Ontario Building Code (O Reg 332/12 under the Building Code Act);
 - (4) *Building Code Act* means the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended, or successor legislation;

- (5) *building permit* means a permit under the *Building Code Act* for construction at or above the *first storey* of a *building*;
- (6) *capital cost* means costs incurred or proposed to be incurred by the *municipality* or a *local board* thereof directly or by others on behalf of, and as authorized by the *municipality* 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, lease, construct or improve facilities including
 - (i) rolling stock,
 - (ii) furniture and equipment,
 - (e) to undertake studies in connection with any of the matters referred to in subsections 1(6)(a) to (d);
 - (f) to complete the community benefits charge strategy under section 37(9) of the Act; and,
 - (g) includes interest on money borrowed to pay for costs in subsections 1(6) (a) to (f); required for provision of services designated in this by-law within or outside the *municipality*;
- (7) *community benefits charge* means a charge imposed pursuant to this by-law;
- (8) *Community Benefits Charge Strategy* means the Community Benefits Charge Strategy prepared pursuant to subsection 37(9) of the *Planning Act*;
- (9) *Condominium Act* refers to the Condominium Act, 1998, S.O. 1998, c.19;
- (10) *Council* means the council of the municipality;
- (11) *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, and includes *redevelopment*;
- (12) *first storey* means the *storey* of a *building*, structure or part thereof, that has its floor closest to *grade* and having its ceiling more than 1.8 metres above *grade*;

- (13) *grade* means the average level of finished ground adjoining a building or structure at all exterior walls;
- (14) *gross floor area* refers to the sum of the total area of each floor level of a *building*, above and below the ground, measured from the exterior of the main wall of each floor level;
- (15) *in-kind contribution* means facilities, services or matters identified in a *Community Benefits Charge Strategy* and required because of *development* or *redevelopment* to be provided by an *owner* of land, in lieu of payment of the *community benefits charge* otherwise applicable, in whole or in part;
- (16) *municipality* means The Corporation of the Town of Oakville;
- (17) *official plan* means the Official Plan of the Town of Oakville and any amendments thereto;
- (18) *owner* means the owner of land or a person who has made application for an approval for the *development* or *redevelopment* of land upon which a *community benefits charge* is imposed;
- (19) *redevelopment* means the construction, erection or placing of one or more *buildings* or structures on land where all or part of a *building* or structure has previously been demolished on such land, or changing the use of a *building* or structure from a *residential use* to a non-residential use or from a non-residential use to a *residential use*, or changing a *building* or structure from one form of *residential use* to another form of *residential use* or from one form of non-residential use to another form of non-residential use;
- (20) *regulation* means O. Reg. 509/20 as amended or successor regulation;
- (21) *residential use* means lands, *buildings* or structures, or portions thereof, used, or designed or intended for use as a home or residence of one or more individuals, and the residential portion of a mixed-use *building* or structure;
- (22) *residential unit* means a unit that consists of a self-contained set of rooms located in a *building* used or intended for *residential use* and contains full culinary and sanitary facilities for the use of that unit;

- (23) *storey* means that portion of a building that is:
- (a) situated between the top of any floor and the top of the floor next above it; or,
 - (b) if there is no floor above it, that portion between the top of such floor and the ceiling above it
- (24) *Treasurer* means the Treasurer of the municipality or designate;
- (25) *valuation date*, with respect to land that is the subject of development or redevelopment, refers to:
- (a) The day before the day the *building permit* is issued in respect of the development, or
 - (b) If more than one *building permit* is required for the development, the day before the day the first *building permit* is issued;
- (26) *value of land* for the purposes of determining the *community benefit charge* payable, refers to appraisals of land value, which shall be carried out under the direction of the Manager, Realty Services, and shall be determined with reference to accepted appraisal standards and principles as outlined in the Canadian Uniform Standards of Professional Appraisal Practice.

APPLICATION

2. A *community benefit charge* shall be payable for the *capital costs* of facilities, services and matters required for *development* and *redevelopment* of all lands in the geographic area of the Town of Oakville, with the exception of land that is owned by and used for the purposes of:
- (a) a *board of education*;
 - (b) a provincial or federal crown agency;
 - (c) a publicly-funded university, community college or a college of applied arts and technology established under the Ontario Colleges of Applied Art and Technology Act, 2002, S.O 2002, c.8, Schedule F, as amended, or
 - (d) any *municipality* or local board thereof.

APPROVAL FOR DEVELOPMENT AND REDEVELOPMENT

- 3.
- (1) Subject to subsection 2, *community benefits charges* shall be calculated and collected in accordance with the provisions of this by-law and be imposed on land to be developed or redeveloped, where the *development* or *redevelopment* requires:
 - (a) the passing of a zoning by-law or an amendment thereto under section 34 of the *Planning Act*;
 - (b) the approval of a minor variance under section 45 of the *Planning Act*;
 - (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
 - (e) a consent under section 53 of the *Planning Act*;
 - (f) the approval of a description under section 9 of the *Condominium Act*, R.S.O.1992, c.19, as amended or successor legislation; or
 - (g) the issuing of a permit under the *Building Code Act*, in relation to a *building* or structure.
 - (2) The *community benefits charge* shall be payable on:
 - (a) development of a proposed building or structure with five or more storeys at or above ground and contain ten or more residential units;
 - (b) redevelopment of existing *buildings* or structures that will be five or more storeys at or above ground after the redevelopment and add ten or more *residential units* after the to an existing *building* or structure;

EXEMPTIONS

- 4.
- (1) Notwithstanding section 3(2), the following types of development and redevelopment are excluded:
- (a) a *building* or structure intended for use as a long-term care home within the meaning of subsection 2(1) of the *Fixing Long-Term Care Act, 2021*;
 - (b) a *building* or structure intended for use as a retirement home within the meaning of subsection 2 (1) of the *Retirement Homes Act, 2010*;
 - (c) 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*.
 - (d) 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) a *building* or structure intended for use as a hospice to provide end of life care;
 - (f) a *building* or structure intended for use as residential premises by,
 - (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; or
 - (iii) a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*,

TIME OF CALCULATION AND PAYMENT

- 5.
- (1) The amount of the *community benefits charge* payable is 4% of the *value of land* that is subject of the *development* or *redevelopment* on the *valuation date* in respect to the *development* or *redevelopment*.
 - (2) *Community benefits charges* shall be calculated and payable in full on the date that the *building permit* is issued in relation to a *building* or structure on land to which a *community benefit charge* applies, or in accordance with terms of an arrangement for the provision of *in-kind contributions* as described in subsection 5(3).
 - (3) In accordance with subsection 37(6) of the Act, the *municipality* may in its sole discretion permit an *owner* of land to provide an *in-kind contribution* in-lieu of payment of the *community benefits charge* otherwise payable, in whole or in part. The *community benefit charge* otherwise payable for the *development* or *redevelopment* will be reduced by the value that the *municipality* has attributed to the *in-kind contribution*.
 - (4) Where *community benefits charges* apply to land in relation to which a *building permit* is required, the *building permit* shall not be issued until the *community benefits charge* has been paid in full.
 - (5) Where an *owner* of land is of the view that the amount of the *community benefits charge* exceeds 4% of the *value of land* at the *valuation date*, the *owner* shall pay the charge under protest and a dispute resolution process will take place in accordance with the Act;
 - (6) Where *development* or *redevelopment* requires an action described in subsection 3(1) after the issuance of a *building permit* and no *community benefits charges* have been paid, then the *community benefits charges* shall be paid prior to the granting of approval for any action required under subsection 3(1) of this by-law.
 - (7) If a *development* or *redevelopment* does not require a *building permit* but does require one or more of the actions described in subsection 3(1) then, notwithstanding subsection 5(2) above, *community benefits charges* shall nonetheless be payable prior to the approval of the action described in subsection 3(1).

- (8) 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 benefits 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.
- (9) If a *development* or *redevelopment* proposes multiple uses within a *building* or structure and the owner has provided satisfactory evidence that it includes one or more of the excluded types of *development* described in section 4, the *community benefits charge* otherwise payable will be reduced by an amount attributed to the *gross floor area* of the excluded type.

BY-LAW REGISTRATION

6. A certified copy of this by-law may be registered on title to any land to which this by-law applies.

SEVERABILITY

7. If, for any reason, any provision, section, subsection or paragraph 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 or amended, in whole or in part or dealt with in any other way.

BY-LAW ADMINISTRATION

8. Council hereby delegates the administration of this by-law to the Manager of Realty Services; the Director, Planning Services and the *Treasurer*.

DATE BY-LAW EFFECTIVE

9. This by-law shall come into force and effect at 12:01 am on September 7, 2022.
10. *Council* shall review this by-law and pass a resolution as to 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.

SHORT TITLE

11. This by-law may be cited as the “Town of Oakville Community Benefits Charge By-law, 2022”.

PASSED this 6^h day of September, 2022

MAYOR

CLERK

DRAFT