Town of Whitby
By-law # 8288-26

Community Benefits Charge By-law

Being a By-law to impose Community Benefits Charges.

Whereas authority is given to Council under section 37 of the *Planning Act, R.S.O. 1990*, c. P.13, (the Planning Act), as amended to adopt a community benefits charge by-law; and,

Whereas The Corporation of the Town of Whitby (Town of Whitby) has prepared a community benefits strategy pursuant to subsection 37(9) of the Planning Act; and,

Whereas the Town of Whitby has consulted with appropriate persons and public bodies in the preparation of this by-law in accordance with subsection 37(10) of the Planning Act;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. Definitions

1.1. **“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;

1.2. **"Basement"** means the portion of a building which is partially underground between the first floor and any floor below the level of the first floor.

1.3. **"Building Code Act"** means the *Building Code Act, 1992*, S.O. 1992, c.23, as amended.

1.4. **"Building Permit"** means a building permit issued by the Chief Building Official under the authority of the Building Code Act.

1.5. **"Building Permit Application"** means an application for issuance of a building permit submitted to and deemed complete by the Chief Building Official, which complies with all applicable requirements of the Building Code Act and the Ontario Building Code, including all applicable law as defined therein, and includes payment of all applicable fees;

1.6. **"Chief Building Official"** means the chief building official for the Town, appointed pursuant to section 3 of the Building Code Act, or their designate.

1.7. **"Community Benefit Strategy"** means the community benefit strategy prepared pursuant to subsection 37(9) of the Planning Act.

1.8. **"Condominium Act"** means the *Condominium Act, 1998*, S.O. 1998, c.19 as amended.

1.9. **"Development or Redevelopment"** means any activity or proposed activity in respect of any land, Building or structure, whether existing or proposed, that requires:

1.9.1. the passing of a zoning by-law or of an amendment to a zoning by-law;

1.9.2. the approval of a minor variance;

1.9.3. conveyance of land to which a part lot control exemption by-law applies;

1.9.4. the approval of a plan of subdivision;

1.9.5. a consent to sever;

1.9.6. the approval of a description of a plan of condominium pursuant to the Condominium Act; or

1.9.7. the issuing of a permit under the Building Code Act, in relation to a building or structure.

1.10. "**Dwelling Unit"** means a suite of habitable rooms which:

1.10.1. is located in a building;

1.10.2. is used or intended to be used in common by one or more persons as a single, independent and separate housekeeping establishment;

1.10.3. contains food preparation and sanitary facilities provided for the exclusive common use of the occupants thereof; and

1.10.4. has a private entrance directly from outside the building or from a common hallway or stairway inside the building;

1.11. **"Grade"** means the average elevation of the finished surface of the ground along the front elevation of a building or structure, exclusive of any artificial embankment abutting such building or structure.

1.12. **"Gross Floor Area"** means the aggregate of the floor areas of all storeys of a building or structure, other than an attic or a cellar, excluding the floor area of any private garage.

1.13. **"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.

1.14. **"Phase"** means a part or parts of a larger development / redevelopment for which separate building permit application(s) will be submitted.

1.15. **"Planning Act"** means the *Planning Act, R.S.O. 1990*, c. P.13 as amended from time to time or any successor thereof.

1.16. **"Residential Unit"** means the same as a dwelling unit.

1.17. **"Storey"** means a level of a building, other than a basement, located between any floor and the floor, ceiling or roof immediately above it, excluding enclosed rooftop mechanical equipment.

1.18. **"Town"** means The Corporation of the Town of Whitby.

1.19. **"Value of the Land"** means for the purposes of determining the Community Benefits Charge payable, the appraised value of the land the day before the building permit is issued in respect of the Development or Redevelopment, in an appraisal prepared by or for the Town and in accordance with generally accepted appraisal principles and standards.

2. Application of By-law

2.1. Subject to Section 2.2 herein, this by-law applies to all lands within the Town of Whitby.

2.2. This by-law shall not apply to land or buildings within the Town of Whitby that are owned or used for the purposes of:

2.2.1. the Town or any local board thereof; or,

2.2.2. a Board of Education.

2.3. A Community Benefits Charge shall be payable against land to pay for the capital costs of facilities, services, and matters required for Development or Redevelopment of all lands in the geographic area of the Town of Whitby unless Section 2.2 of the By-law applies.

2.4. The Community Benefits Charge shall be imposed on all Development or Redevelopment of a building or structure with five or more storeys and that adds ten or more Residential Units.

2.5. The following facilities have been identified as being required, in whole or in part, to meet the increased need for service arising from the CBC-eligible Development or Redevelopment:

2.5.1. Parking Services

2.5.2. CBC Administration

2.5.3. Culture & Tourism – Infrastructure, Equipment & Facilities

2.5.4. Roads and Related & Active Transportation Infrastructure

2.5.5. Public Hospital

2.5.6. Climate Change Initiatives

2.5.7. Town Facilities & Administration Buildings

2.5.8. Parkland, Park Development & Community Facilities

2.5.9. Public Art, Heritage & Culture

3. Amount of Charge

3.1. The amount of the Community Benefits Charge payable is 4% of the value of the land that is the subject of the Development or Redevelopment on the day before the first building permit is issued in respect of the development or redevelopment, multiplied by the ratio of “A” to “B” where,

3.1.1. “A” is the gross 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

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

3.2. The value of the gross floor area for the types of Development or Redevelopment set out in section 1 of Ontario Regulation 509/20 to the Planning Act shall be deducted from the Community Benefits Charge otherwise payable.

3.3. In determining the amount of the Community Benefits Charge for a particular Development or Redevelopment the Town shall require the owner of the land in question to provide an appraisal of the Value of the Land to the Town. The appraisal shall be prepared by an appraiser accredited by the Appraisal Institute of Canada and at no expense to the Town.

4. Timing of Calculation and Payment

4.1. The Community Benefits Charge is payable prior to the issuance of the first building permit issued for the Development or Redevelopment.

4.2. 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 is 4% of the Value of the Land of that phase on the day before the first building permit for the Development or Redevelopment of that phase is issued as required in accordance with section 37(32) of the Planning Act.

5. Statutory Exemptions

5.1. Statutory exemptions shall be provided in accordance with the requirements of the Planning Act and associated Regulations.

5.2. The onus is on the owner or applicant to produce evidence to the satisfaction of the Town establishing that the owner or applicant is entitled to an exemption under the provisions of the Planning Act or this by-law.

6. In-Kind Contributions

6.1. Council may allow an owner of land to provide an In-Kind Contribution in-lieu of payment of a portion or all of the Community Benefits Charge otherwise payable. The Council shall advise the owner of the value that will be attributed to any In-Kind Contribution prior to the owner providing such facilities, services and other matters.

6.2. Where the Town intends to allow the owner to provide an In-Kind Contribution, the Town may require the owner to enter into an agreement with the municipality that addresses the provision of the facilities, services or matters.

6.3. In the event that arrangements are made for the provision of the In-Kind Contribution that are satisfactory to Council, the Community Benefits Charge otherwise payable for the Development or Redevelopment shall be reduced by the value that the Town has attributed to the In-Kind Contribution.

6.4. Notwithstanding section 6.1, 6.2 and 6.3, any Development or Redevelopment or use that is excluded or exempted by the Planning Act or in this by-law shall not be considered an In-Kind Contribution for the purposes of subsection 37(8) of the Planning Act.

7. Payment Under Protest and Dispute Resolution

7.1. Where an owner of land is of the view that the amount of the Community Benefits Charge exceeds 4% of the land value, the owner shall pay the charge under protest and within thirty (30) days provide the Town with an Appraisal of the Value of the Land as of that phase on the day before the first building permit for the Development or Redevelopment.

7.2. 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.

7.3. If the Town does not dispute the owner's Appraisal, the Town shall refund to the owner the difference between the amount paid and 4% of the land value determined by the owner's Appraisal.

7.4. If the Town disputes the value of land identified in the owner's Appraisal, then the Town shall provide the owner with an Appraisal of that phase on the day before the first building permit for the Development or Redevelopment as of the valuation date within 45 days of receiving the owner's appraisal, and subsection 37(37)-(41) of the Planning Act apply.

8. Review

8.1. Within five years after this by-law is passed Council shall ensure that a review of this by-law is undertaken and shall pass a resolution declaring whether a revision to the by-law is needed and thereafter shall further review the by-law and pass a resolution within every five years after the previous resolution was passed.

9. Miscellaneous

9.1. All payment collected under this by-law shall be paid into the Community Benefits Charge Reserve Fund.

9.2. In administering the Community Benefits Charge Reserve the Town Treasurer, or their designate, shall:

9.2.1. maintain records of all remittances, acquisitions and other details as prescribed by the Planning Act;

9.2.2. invest fund money in securities as permitted by the *Municipal Act, 2001*, SO 2001, c 25 with any earnings returned to the fund; and,

9.2.3. issue publicly available reports on the fund in a frequency and format as prescribed by the Planning Act.

10. Short Title

10.1. The by-law may be cited as the “Town of Whitby Community Benefits Charge By-law”.

11. Effective Date

11.1. The provisions of this By-law shall come into force and effect on January 1, 2027.

By-law read and passed this 25th day of May, 2026.

Elizabeth Roy, Mayor

Christopher Harris, Town Clerk