

The Corporation of the City of Guelph

By-law Number (2022) - 20714

A by-law for the imposition of Community Benefits Charges

Whereas The Corporation of the City of Guelph (the "City") will experience growth through development and re-development;

And whereas 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 the by-law applies;

And whereas the *Planning Act, 1990* (the "Act") provides that the council of a municipality may by by-law impose Community Benefits Charges against higher density residential development or redevelopment;

And whereas a Community Benefits Charge strategy report, dated March 31, 2022, has been completed which identifies the facilities, services and matters that will be funded with community benefits charges and complies with the prescribed requirements;

And whereas the City has consulted with the public and such persons and public bodies as the City considers appropriate;

The Council of the Corporation of the City of Guelph enacts as follows:

1. Interpretation

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

"Accessory Apartment" see "Residential Unit";

"Apartment" see "Residential Unit";

"Building" means any structure or building as defined in the *Ontario Building Code* (O Reg 332/12 under the Building Code Act), but does not include a vehicle;

"Building Code Act" means the *Building Code Act, 1992*, SO 1992, c 23;

"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 study,

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 Guelph or the geographic area of the municipality, as the context requires;

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

“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 section 3.4(a), and includes Redevelopment;

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

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

“Land” means, for the purposes of this By-law, the lesser of the area defined as:

- (a) The whole of a parcel of property associated with the Development or Redevelopment and any abutting properties in which a person holds the fee or equity of redemption in, power or right to grant, assign or exercise a power of appointment in respect of, or;
- (b) The whole of a lot or a block on a registered plan of subdivision or a unit within a vacant land condominium that is associated with the Development or Redevelopment;

But not including any hazard lands, natural heritage features, or ecological buffers identified in the City’s Official Plan, an approved Secondary Plan, or through an environmental impact study accepted by the City.

“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 Act;

“Redevelopment” means the construction, erection or placing of one or more Buildings on land where all or part of a Building has previously been demolished on such land, 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 section 3.4(a);

“Residential Unit” means a room or group of rooms occupied or designed to be occupied exclusively as an independent and separate self-contained housekeeping unit including a house;

- (a) “Accessory Apartment” means a Residential Unit located within and subordinate to an existing Single Detached Dwelling, Semi-Detached Dwelling, Townhouse and a Multiple Attached Dwelling;
- (b) “Apartment Building” means a Building consisting of 10 or more Residential Units, where access to each unit is obtained through a common entrance or entrances from the Street level and subsequently through a common hall or halls, and “Apartment” means a Residential Unit in an Apartment Building;

“Residential Use” means land, Buildings or structures of any kind whatsoever used or designed or intended for use as living accommodations for one or more individuals, but does not include land, Buildings, or structures used or designed or intended for use as Short-Term Accommodation;

“Service” means a service designated in section 2.1, and “Services” shall have a corresponding meaning;

“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 City By-law Number (1995)-14864, as it may be amended and/or any successor thereto.

1.2 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.

2. Designation of Services

2.1 A Community Benefits Charge may be imposed on Development or Redevelopment to support Capital Costs in respect of:

- (a) land for park or other public recreational purposes over and above lands dedicated or provided cash-in-lieu payments under section 42 or 51.1 of the Planning Act; and/or
- (b) Services not provided under section 2(4) of the Development Charges Act.

2.2 Identification of Services

Community Benefits Charges shall be collected for and applied to the Capital Cost of the following Services of Development or Redevelopment:

- (a) those Services specifically outlined in the March 31, 2022 Community Benefits Strategy Report, being:
 - (i) Growth Studies;
 - (ii) Municipal Parking;
 - (iii) Parkland Acquisition;
 - (iv) Culture; and
 - (v) Community Benefit Charge Strategies; and/or
- (b) Other Services within the scope of section 2.1 of this By-law as are identified during the City’s annual budget process.

3. Application of By-law Rules

3.1 Community Benefits Charges shall be payable in the amounts set out in this By-law where:

- (a) the lands are located in the area described in section 3.2; and
- (b) the Development requires any of the approvals set out in section 3.4(a).

Area to Which By-law Applies

3.2 Subject to section 3.3, this By-law applies to all lands in the City.

3.3 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; or
- (c) a municipality, or a Local Board of the County of Wellington.

Approvals for Development

- 3.4 (a) A Community Benefits Charge may be imposed only with respect to development or redevelopment that requires:
- (i) an amendment to a 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*; or
 - (vii) the issuing of a permit under the *Building Code Act* in relation to a Building or structure.
- (b) Despite 3.4(a) above, a Community Benefits Charge may 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 other types of Development or Redevelopment as are or may in the future be Prescribed.

Exemptions

- 3.5 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*;
 - (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*;
 - (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); and/or

- (iii) an Indigenous Institute prescribed for the purposes of section 6 of the *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 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) 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*.

Amount of Charge

- 3.6 The amount of a Community Benefits Charge payable in any particular case shall be four (4) percent of the value of the Land as of the valuation date as supported by an appraisal of an accredited appraiser.

In-Kind Contributions

- 3.7 The City may at its discretion allow an owner of Land to provide to the City, in full or partial satisfaction of its obligation to pay a Community Benefits Charge, such facilities, services or matters required because of Development or Redevelopment
- 3.8 For in-kind contributions to be considered, 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.
- 3.9 In-kind contributions shall only be accepted as recommended by the Chief Administrative Officer and approved by Council.
- 3.10 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.
- 3.11 The value attributed to in-kind contributions shall be as determined by Council, based on appropriate third-party valuations.

Time of Payment of Community Benefits Charges

- 3.12 Community Benefits Charges imposed under this By-law are calculated, payable, and collected on the Valuation Date unless the person seeking to Develop or Redevelop the Land enters into an alternative agreement for payment on terms acceptable to the City and/or a binding commitment to provide such in-kind contributions as have been approved by Council.

4. Severability

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.

5. Date By-law In Force

This By-law shall come into effect at 12:01 A.M. on September 18, 2022.

Passed Eighteenth day of July 2022.

Cam Guthrie, Mayor

Stephen O'Brien, City Clerk