

The Corporation of the City of Pickering

By-law No. 7954/22

Being a By-law to Establish Community Benefits Charges for the City of Pickering and hereby establish the Community Benefits Charges Reserve Fund.

Whereas the City of Pickering (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 May 20, 2022, and updated June 23, 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

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

Whereas on July 11, 2022, Council for the City of Pickering approved Report FIN 12-22, dated July 11, 2022, in which certain recommendations were made relating to the Community Benefits Strategy and By-law; and

Whereas the *Municipal Act, SO, 2001*, as amended, section 417 (1), the Council of the Corporation of the City of Pickering may establish and maintain a reserve fund for any purpose for which it has authority to expend funds;

Now therefore the Council of the Corporation of the City of Pickering hereby enacts as follows:

1. Interpretation

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

“Act” means the *Planning Act, R.S.O. 1990, Chapter P.13*;

“Apartment” means a dwelling unit in an apartment building;

“Apartment Building” means a residential building or the residential portion of a mixed-use building consisting of more than 3 dwelling units, which dwelling units have a common entrance to grade, but does not include a triplex, semi-detached duplex, semi-detached triplex, and townhouse. Notwithstanding the foregoing, for the purpose of applying the Community Benefits Charges, an Apartment Building includes a Stacked Townhouse;

“Bedroom” means any room used, or designed or intended for use, as sleeping quarters;

“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 as amended;

“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 City of Pickering or the geographic area of the municipality, as the context requires;

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

“Council” means the Council of the City of Pickering;

“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), and includes Redevelopment;

"Dwelling Unit" means a room or suite of rooms used, or designed or intended for use by one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;

"Grade" means the average level of proposed or finished ground adjoining a building at all exterior walls;

"Land" (or "Lot") 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 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);

"Residential Unit" means a room or suite of rooms used, or designed or intended for use by one person or persons living together, in which culinary and sanitary facilities are provided for the exclusive use of such person or persons;

"Residential Use" means lands, buildings or structures used, or designed or intended for use as a home or residence of one or more individuals, and shall include, but is not limited to, a single detached dwelling, a semi-detached dwelling, a townhouse, a plex, a stacked townhouse, an apartment building, a mobile home, a retirement residence and a residential dwelling unit accessory to a non-residential use;

"Service" means a service designated in subsection 1.3, and "Services" shall have a corresponding meaning;

“Stacked Townhouse” means a building, other than a duplex, triplex, townhouse, or apartment building, containing at least 3 dwelling units, each dwelling unit separated vertically and/or horizontally and each dwelling unit having a separate entrance to grade;

“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:

- (a) that is situated between the top of any floor and the top of the floor next above it, or
- (b) that is situated between the top of the floor and the ceiling above the floor, if there is no floor above it;

“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 City under section 34 of the *Planning Act*.

- 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.

Designation of Services

- 1.3 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 cash-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*;
 - (c) As per the June 20, 2022, and updated June 23, 2022 Community Benefits Charges Strategy, the City intends to recover Capital Costs relating to the following services through this by-law:
 - (i) Arts, Culture, and Museum;
 - (ii) Animal Adoptions; and
 - (iii) Administration.

2. Payment of Community Benefits

- 2.1 Community Benefits Charges shall be payable by the Owner of Land proposed 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 3.2; 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 City.
- 2.3 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;
 - (c) The Region of Durham, 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 Zoning By-Law or of 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*, SO 1998, c 19, as amended, 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 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 prescribed by Regulation.
- (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 its ceiling more than 1.8 metres 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 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);
 - (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) 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) Development or Redevelopment of a building or structure for which the City has received an application for Site Plan Approval, that has been deemed complete by the City, on or before the passing of this By-law, and where development or redevelopment has satisfied the following requirements:
 - (i) the zoning by-law to permit the development or redevelopment is in full force and effect with no appeals, on or before December 31, 2022; and
 - (ii) Council has passed a Zoning By-law to lift or remove any (H) Holding Symbol on the subject lands on or before the passing of this By-law.

Amount of Charge

- 2.6 The amount of a Community Benefits Charge payable in any particular case shall be determined based on the charges set out in Schedule "A" to this by-law.

In-Kind Contributions

- 2.7 The City may, at its discretion, allow an Owner of Land to provide to the City 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 City 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 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 City shall pay interest on a refund in accordance with subsections 37 (28) and 37 (29) of the 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.

Indexing

- 2.13 The Community Benefits Charges referred to in Section 2.6 shall be adjusted annually, without amendment to this By-law, as of July 1 each year as follows:
- (a) The rates in Schedule "A" shall be adjusted annually in accordance with the change in the index for the most recently available annual period ending March 31 for the Statistics Canada Non-Residential Building Construction Price Index for Toronto;
 - (b) The indexed Community Benefits Charges effective July 1 each year shall not apply to building permit applications received prior to the July 1 effective date, provided:
 - (i) the permit application is complete in terms of the applicant's submission requirements set out in the building code and the City's Building By-law;
 - (ii) applicable law approvals prescribed in the building code have been obtained or applied for; and
 - (iii) the building permit or a conditional building permit is issued for all or part of the building by the date set out in the Region of Durham's annual report on the indexing of Development Charges.

3. Administration

- 3.1 That the Community Benefits Charge Reserve Fund be established in pursuant to subsections 37 (45) to 37 (48) of the *Planning Act*.
- 3.2 Interest earned on the investment of fund balances shall form part of this reserve fund.

- 3.3 Monies received for the payment of Community Benefits Charges may be invested in securities (as permitted under the *Municipal Act*) and the interest earnings shall be paid into the special account.
- 3.4 The monies contained in the reserve funds established under this Section shall be invested in securities (as permitted under the *Municipal Act*), with any income received credited to the Community Benefits Charge reserve funds, in relation to which the investment income applies.
- 3.5 In each year, the municipality shall spend, or allocate, at least 60 percent of the monies that are in the special account at the beginning of the year.
- 3.6 The municipality shall provide reports and information as set out in section 7 of O. Reg. 509/20 under the *Planning Act*.
- 3.7 Community Benefits Charges are payable by electronic funds transfer or certified cheque, at the applicable rates, or as otherwise may be approved by Council.

4. Severability

- 4.1 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.

Date By-law In Force

- 4.2 This By-law shall come into effect at 12:01 am on September 30, 2022.

Passed this 11th day of July 2022.

Original Signed By

David Ryan, Mayor

Original Signed By

Susan Cassel, City Clerk

Schedule "A"
Schedule of Community Benefits Charges

Description	Residential	
	Apartments – 2 Bedrooms +	Apartments – Bachelor and 1 Bedroom
C.B.C. by Dwelling Unit Type	1,070	657