

CITY OF NIAGARA FALLS

By-law No. 2022-119

A by-law to establish community benefits charges for The Corporation of the City of Niagara Falls.

WHEREAS authority is given to Council under section 37 of the Planning Act, R.S.O. 1990, c. P.13, as amended, (hereinafter called the "Act") to adopt a Community Benefits Charge by-law;

AND WHEREAS the City of Niagara Falls (hereinafter the "City") has prepared a Community Benefits Charge Strategy pursuant to subsection 37(9) of the Act;

AND WHEREAS the City has consulted with appropriate persons and public bodies in the preparation of this by-law.

NOW THEREFORE THE COUNCIL OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law,

- (1) "**Attainable Housing**" means an ownership or rental housing option that is affordable to households earning up to \$95,891 per year, for which the sale price is at or below \$499,440 for ownership options, and for which the rental rates are at \$2,400 per month or below for rental options, with this household salary scale, purchase price level, and rental rate currently based on the City's housing strategy prepared by Dillon Consulting and endorsed by Council on March 22, 2022, being subject to updates from time to time in accordance with updates to the City's housing strategy and as otherwise permitted at law for the rental rate;
- (2) "**Basement**" means all portions of a Building below the first storey of a Building;
- (3) "**Building**" means a building, or part thereof, occupying an area greater than ten square metres (10m²) consisting of a wall, roof and floor or a structural system serving the function thereof, and includes an above-grade storage tank and an industrial tent;
- (4) "**Building Code Act**" means the *Building Code Act*, 1992, S.O. 1992, c.23, as amended from time to time;

- (5) **"Building Permit"** – means a permit issued under the Building Code Act, which permits the construction or change in use of a Building including but not limited to the construction of the foundation of a Building;
- (6) **"Building Permit Application"** means an application submitted to and accepted by the Chief Building Official for a Building Permit which complies with the applicable zoning by-law and with all technical requirements of the Building Code Act and includes payment of all applicable fees;
- (7) **"Chief Building Official"** means a chief building official for the City appointed or constituted under section 3 of the Building Code Act or their designate;
- (8) **"Community Benefits Charge"** means a charge imposed pursuant to this by-law;
- (9) **"Community Benefits Strategy"** means the community benefit strategy prepared pursuant to subsection 37(9) of the Act;
- (10) **"Condominium Act"** means the Condominium Act, 1998, S.O. 1998, c.19 as amended from time to time;
- (11) **"Development or Redevelopment"** means any activity or proposed activity in respect of any land, Building or structure, whether existing or proposed, that requires:
- a. the passing of a zoning by-law or of an amendment to a zoning by-law;
 - b. the approval of a minor variance;
 - c. a conveyance of land to which a part lot control exemption by-law applies;
 - d. the approval of a plan of subdivision;
 - e. a consent to sever;
 - f. the approval of a description of a plan of condominium pursuant to the Condominium Act; and
 - g. the issuing of a permit under the Building Code Act, in relation to a building or structure;

but excludes development or redevelopment in accordance with Section 37(4) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

- (12) **"Gross Floor Area"** means the sum of the total area of each floor level of a Building or structure, above and below the ground, measured from the exterior of the main wall of each floor level;
- (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 a portion or all of the Community Benefits Charge otherwise applicable;

- (14) **“Purpose-built Attainable Housing”** means a development in which all or a portion of the Residential Units to be constructed will serve as Attainable Housing and where such housing is intended to be rental housing it shall be required to be maintained for a period of at least 20 years as rental housing with said period to be secured by an agreement with the City in a form satisfactory to the City Solicitor;
- (15) **“Region”** means the Regional Municipality of Niagara;
- (16) **“Residential Gross Floor Area”** means the Gross Floor Area of a building or structure that is developed for residential uses, including the Residential Units and associated common areas;
- (17) **“Residential Unit”** means a unit that:
- a. consists of a self-contained room or set of rooms located in a Building or structure,
 - b. is used or intended for use as residential premises,
 - c. contains kitchen and bathroom facilities that are intended for the use of the unit only, and
 - d. functions as a housekeeping unit used or intended for use as a domicile by one or more persons;
- (18) **“Storey”** means a level of a Building or structure, other than a Basement, located between any floor and the floor, ceiling or roof immediately above it;
- (19) **“Value of the Land”** means for the purposes of determining the Community Benefits Charge payable, the appraised value of the land in an appraisal prepared at the expense of the owner or developer of the land and by an appraiser selected by the City. The value of the Gross Floor Area of the following areas shall be excluded from the Value of the Land used to determine the Community Benefit Charge payable:
- a. Any existing Residential Units that are not demolished on the land that is the subject of the development or redevelopment; and
 - b. Any existing non-residential use that is not demolished or converted to residential uses on the land that is the subject of the development or redevelopment.

APPLICABLE LANDS

2.

(1) Subject to subsections 2(2) and 2(3) herein, this by-law applies to all lands within the City of Niagara Falls.

(2) This by-law shall not apply to land or Buildings within the City of Niagara Falls that are owned by or used for the purposes of the Municipality or the Region.

(3) The following are exempt from the payment of Community Benefit Charges under this by-law:

- a. Property excluded under section 1 of O. Reg. 509/20: Community Benefits Charges and Parkland made under the *Planning Act*, R.S.O. 1990, c. P.13.as amended; and
- b. Developments that have received funding through an agreement with Niagara Regional Housing or a designated agency of the Region as per the Region's by-law 2017-98, Section 11(f).

(4) Subject to subparagraph 2(5) of this by-law, where a development includes Attainable Housing, the percentage of the Residential Gross Floor Area which meets the definition of Attainable Housing as compared to the total Gross Floor Area, excluding the Gross Floor Area developed for non-residential purposes in the development, shall receive a credit equal to 100% of the value of any Community Benefit Charge payable under this by-law for that portion of the development that is developed for Attainable Housing.

(5) The City will at its discretion verify from time to time whether a development complies with the conditions for credits that are set out in subparagraph 2(4) of this by-law. If during the term of any agreement with the City, a development no longer meets the conditions for a credit that are set out herein, then the credited portion of the Community Benefits Charge will become payable as appraised at the date of non-compliance.

APPLICATION OF BY-LAW

3.

(1) A Community Benefits Charge shall be payable for the capital costs of facilities, services, and matters required for Development or Redevelopment of all lands in the geographic area of the City unless subsection 2(2) herein applies.

(2) The Community Benefits Charge shall be imposed on all Development or Redevelopment of a Building or structure with five or more Storeys and that

contains (for Development) or adds (for Redevelopment) ten or more Residential Units.

AMOUNT OF CHARGE

4. 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.

TIMING OF CALCULATION AND PAYMENT

5.
 - (1) The Community Benefits Charge is payable prior to the issuance of the first Building Permit issued for the Development or Redevelopment.
 - (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.
 - (3) The Community Benefits Charge otherwise payable shall be reduced in accordance with any credits applicable as set out in subparagraphs 2(4) and 2(5) of this by-law.
6.
 - (1) Prior to the application for a Building Permit, the owner shall commission at its sole expense, an appraisal to determine the applicable Community Benefits Charge payable under this by-law.
 - (2) All appraisals required under this by-law shall,
 - a. be conducted by a certified professional appraiser designated as an Accredited Appraiser by the Appraisal Institute of Canada with experience appraising all types of real property;
 - b. state the criteria used to determine the value presented in the appraisal;
and

- c. remain valid for a maximum period of one (1) year from the appraisal date.
- (3) An appraisal that does not meet the requirements of section 7(2) of this by-law does not engage the valuation dispute resolution process in section 37 of the Act.
- (4) The appraisal valuation date of land subject to a charge under this by-law shall be the day before the day the required first Building Permit is issued for the Development or Redevelopment.

EXEMPTIONS

- 7. The onus is on the owner or applicant to produce evidence to the satisfaction of the Municipality establishing that the owner or applicant is entitled to an exemption or credit under the provisions of this by-law.

IN-KIND CONTRIBUTIONS

- 8. In the event that Council has allowed 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 and arrangements for the provision of the In-kind contribution that are satisfactory to City Council have been made, the Community Benefits Charge otherwise payable for the Development or Redevelopment shall be reduced by the value that the City has attributed to the In-kind contribution.

REVIEW

- 9. 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.

SHORT TITLE

- 10. This by-law may be cited as the “City of Niagara Falls Community Benefits Charge By-law”.
- 11. This by-law comes into force on the day it is passed.

**Read a First, Second and Third time; passed, signed and sealed in open Council
this 12th day of September, 2022.**

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WILLIAM G. MATSON, CITY CLERK

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JAMES M. DIODATI, MAYOR