

## **CITY OF NIAGARA FALLS**

### **By-law No. 2022-**

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) **"Basement"** means all portions of a Building below the first storey of a Building;

(2) **"Building"** means a building, or part thereof, occupying an area greater than ten square metres (10m<sup>2</sup>) 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;

(3) **"Building Code Act"** means the Building Code Act, 1992, S.O. 1992, c.23, as amended from time to time;

(4) **"Building Permit"** – means a permit issued under the Building Code Act, 1992, which permits the construction or change in use of a Building including but not limited to the construction of the foundation of a Building;

(5) **"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;

(6) "**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;

(7) "**Community Benefits Charge**" means a charge imposed pursuant to this by-law;

(8) "**Community Benefits Strategy**" means the community benefit strategy prepared pursuant to subsection 37(9) of the Act;

(9) "**Condominium Act**" means the Condominium Act, 1998, S.O. 1998, c.19 as amended from time to time;

(10) "**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; or

(g) the issuing of a permit under the Building Code Act, in relation to a building or structure;

(11) "**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;

(12) "**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;

(13) "**Region**" means the Regional Municipality of Niagara;

(14) "**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.

(15) **"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;

(16) **"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 by or for the Municipality and in accordance with generally accepted appraisal principles and standards.

## **APPLICABLE LANDS**

2.

(1) Subject to subsection 2(2) 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.

## **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 of Niagara Falls 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.
5. The Community Benefits Charge otherwise payable shall be reduced on a proportionate basis based on the percentage of the Building comprised of the Gross Floor Area for the types of Development or Redevelopment set out in section 1 of Ontario Regulation 509/20 to the Act.

#### **TIMING OF CALCULATION AND PAYMENT**

6.
  - (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.

#### **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 under the provisions of this by-law.

#### **IN-KIND CONTRIBUTIONS**

8. In the event that City 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 City 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   <sup>th</sup> day of August, 2022.**

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WILLIAM G. MATSON, CITY CLERK

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JAMES M. DIODATI, MAYOR