



## By-law 2022-xx

### A BY-LAW TO ESTABLISH COMMUNITY BENEFITS CHARGES FOR THE CORPORATION OF THE CITY OF MARKHAM

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**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

**AND WHEREAS** the City of Markham (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 MARKHAM 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 York;
- (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 Markham.
  - (2) This by-law shall not apply to land or **Buildings** within the City of Markham 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 Markham 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. The by-law may be cited as the “City of Markham Community Benefits Charge By-law”.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS  
31<sup>st</sup> DAY OF MAY, 2022.

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CITY CLERK  
KIMBERLEY KITTERINGHAM

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MAYOR FRANK SCARPITTI