

Authority: Ontario Land Tribunal Decision
and Order issued on December 13, 2024
in File OLT-23-000749

The Corporation of the Town of Innisfil

By-Law No. 109-24(OLT)

A By-Law of The Corporation of the Town of Innisfil to amend By-law No. 040-23 to Impose Community Benefits Charges

Whereas the Ontario Land Tribunal (OLT), in its Decision and Order issued on December 13, 2024 in file OLT-23-000749, in hearing an appeal under Section 37(17) of the Planning Act, R.S.O. 1990, c. P.13, as amended, ordered the amendment of By-law N0. 040-23, to Impose Community Benefits Charges

Whereas authority is given to Council under section 37 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to adopt a community benefits charge by-law; and

Whereas The Corporation of the Town of Innisfil has prepared a community benefits strategy pursuant to subsection 37(9); and

Whereas The Corporation of the Town of Innisfil has consulted with appropriate persons and public bodies in the preparation of this by-law.

Now Therefore pursuant to the Order of the OLT, By-law No. 040-23 is amended as follows:

Definitions:

As used in this by-law the following terms shall have the meaning indicated:

"Basement" - the portion of a building between the first floor and any floor below the level of the first floor.

"Building Code Act" - the Building Code Act, 1992, S.O. 1992, c.23, as amended.

"Building Permit" – means a building permit issued by the Chief Building Official under the authority of the Building Code Act.

"Building Permit Application" – means an application for issuance of a building permit submitted to and deemed complete by the Chief Building Official, which complies with all applicable requirements of the Building Code Act and the Ontario Building Code, including all applicable law as defined therein, and includes payment of all applicable fees;

"Chief Building Official" – means the chief building official for the Town, appointed pursuant to section 3 of the Building Code Act, or their designate.

"Community Benefit Strategy" – the community benefit strategy prepared pursuant to subsection 37(9) of the Planning Act.

"Condominium Act" – the Condominium Act, 1998, S.O. 1998, c.19 as amended.

"Development or Redevelopment" means any activity or proposed activity in respect of any land, Building or structure, whether existing or proposed, that requires:

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- 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. 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;

"Residential Dwelling Unit" – means one or more habitable rooms designed or intended to be used together as a single and separate house-keeping unit by one person or jointly by two or more persons, containing its own kitchen and sanitary facilities, with a private entrance from outside the unit itself.

"First Storey" means the storey that has its floor closest to grade and its ceiling more than one-point-eight (1.8) metres above the average adjacent grade abutting the front yard, but shall not include the basement. For purposes of this bylaw, the first storey is deemed to be at or above ground level;

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

"Gross Floor Area" – the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level.

"In-Kind Contribution" - 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 the community benefits charge otherwise applicable, in whole or in part.

"Phase" – means a part or parts of a larger development / redevelopment for which separate building permit application(s) will be submitted.

"Planning Act" – means the Planning Act, R.S.O. 1990, c. P.13 as amended from time to time or any successor thereof.

"Residential Unit" - means a dwelling unit that,

- a. consists of a self-contained set of rooms located in a building or structure, and
- b. is used or intended for use as residential premises.

"Storey" – a level of a building, other than a basement, located between any floor and the floor, ceiling or roof immediately above it.

"Town" – means the Corporation of the Town of Inssifl.

"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 Town and in accordance with generally accepted appraisal principles and standards.

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Applicable Lands:

1. Subject to section 2 herein, this by-law applies to all lands within the Town of Innisfil.
2. This by-law shall not apply to land or Buildings within the Town of Innisfil that are owned or used for the purposes of the Town or the County.

Application of By-law:

3. 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 Town of Innisfil unless section 2 herein applies.
4. The Community Benefits Charge shall be imposed on all Development or Redevelopment of a building or structure with five or more storeys and that adds ten or more Residential Dwelling Units.

Amount of Charge

5. The standard approach to calculating the amount of the Community Benefits Charge owing for a specific development will be based on the number of Residential Dwelling Units multiplied by one of the following unit rates:
 - (a) Development located in the Orbit Secondary Plan Area, as shown on Schedule A: **\$800** per Dwelling Unit.
 - (b) Development located elsewhere in the Town outside the Orbit Secondary Plan Area: \$800 per Dwelling Unit

5.1 On and following the date when the Town's Building Department issues the first Building Permit for the construction of a Major Transit Station in the Orbit Secondary Plan Area, as shown on Schedule A, the rate in subsection 5(a) will increase to \$900 per Dwelling Unit.

5.2 On and following the date when the Major Transit Station located in the Orbit Secondary Plan Area becomes operational and open to the public, the rate in subsection 5(a) will increase to \$950 per Dwelling Unit.

5.3 The per Dwelling Unit rates provided in sections 5, 5.1 and 5.2 shall be adjusted annually without amendment to this By-law, commencing on April 1, 2024, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, Building Construction Cost Index.

- 6 Notwithstanding section 5, the Town **may elect in writing and with notice to the applicant**, to calculate the amount of the Community Benefits Charge payable, for any specific development, at an amount equivalent to 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, multiplied by the ratio of "A" to "B" where,
 - a. "A" is the gross floor area of any part of a building or structure, which part is proposed to be erected or located as part of the development or redevelopment, and

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- b. "B" is the gross floor area of all buildings and structures that will be on the land after the development or redevelopment.
- c. The value 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 shall be deducted from the Community Benefits Charge otherwise payable.

6.1 If the Town elects to calculate the Community Benefits Charge payable as described in section 6, the Town will notify the applicant of the election and the amount payable on or before the earlier of the date upon which the Town (or the Ontario Land Tribunal) issues a Notice of Approval of Conditions (NOAC) or a Site Plan Approval whichever comes first.

Timing of Calculation and Payment:

- 7 The Community Benefits Charge is payable prior to the issuance of the first building permit issued for the Development or Redevelopment.
- 8 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 to be calculated in accordance with sections 5 & 6 of this By-law and as otherwise required in accordance with section 37(32) of the Planning Act.**

Exemptions:

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

In-Kind Contributions:

- 10 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 Council have been made, the Community Benefits Charge otherwise payable for the Development or Redevelopment shall be reduced by the value that the Town has attributed to the In-Kind Contribution.
- 11 Notwithstanding section 10, any Development or Redevelopment or use that is excluded or exempted in this by-law shall not be considered an In-Kind Contribution for the purposes of subsection 37(8) of the Planning Act.

Review:

- 12 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:

- 13 The by-law may be cited as the "Town of Innisfil Community Benefits Charge By-law".

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SCHEDULE A – MAP OF ORBIT SECONDARY PLAN AREA

