



SUBJECT: 2022 Community Benefits Strategy

TO: Corporate Services, Strategy, Risk & Accountability Cttee.

FROM: Finance Department

Report Number: F-27-22

Wards Affected: all

File Numbers: 460-01

Date to Committee: July 11, 2022

Date to Council: July 12, 2022

Recommendation:

Direct the Chief Financial Officer to report back on the final Community Benefits Strategy, bylaw and feedback received at the September 14, 2022 Community Services, Strategy, Risk and Accountability Committee meeting, followed by a special Council meeting.

PURPOSE:

Respond to legislation.

As a result of Bill 108 and Bill 197, Community Benefits Charges (CBC) have been introduced by the Provincial government to replace the former section 37 provisions under the Planning Act. In order to implement a CBC, a CBC Strategy is required prior to the passage of a CBC By-law. This Strategy must follow the requirements in the Planning Act, which are similar to that of Development Charges (DC) Background Study under the Development Charges Act (DCA).

Bill 197 provides a transition period of two years from the date of proclamation, which is September 18, 2020, after which the former section 37 is no longer applicable, and a community benefits charge strategy will need to be implemented.

The city has retained Watson & Associates Economists Ltd. to complete the 2022 CBC Strategy.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth

Background and Discussion:

Council received the following reports as it relates to the development of the Community Benefits Strategy, included herein;

- February 24, 2020 (F-09-20), highlighting amendments due to proclaimed portions of Bill 108.
- November 23, 2020 (F-47-20) highlighting amendments due to Bill 197.
- April 7, 2021 (F-11-21) update on Community Benefits Charges process

A Community Benefits Charge (CBC) allows municipalities to levy a charge against certain forms of higher density development to fund associated development-related capital infrastructure needs. The CBC provisions replace the former section 37 height and density bonusing in the Planning Act, subject to transition rules.

Municipalities can use CBCs to fund capital costs, of any public service, that are related to the needs associated with new growth if those costs are not already recovered from development charges and parkland provisions. A CBC can be used to fund services provided for under a DC by-law, and for parkland acquisitions, as long as there is no duplication of recovery of the same capital costs.

A CBC can only be levied against higher density residential development, limited by the Act to developments that are:

- Five or more storeys, and,
- Contain 10 or more residential units.
- Note that a mixed-use development, a building that contains both residential and non-residential uses, can be subject to a CBC if it meets the above criteria.

The regulations to s.37 of the Act, O. Reg. 509/20, provide for a number of statutory exemptions from the payment of a CBC, as follows:

- Development or redevelopment of buildings with fewer than five storeys and 10 or less residential units;
- Long-term care & retirement homes;
- Colleges, universities and post-secondary indigenous institutes;
- Royal Canadian Legion;
- Hospice for end of life care;
- Non-profit housing.

The Planning Act prescribes that the maximum permitted charge that can be levied is four per cent of land value for a development with five or more storeys and ten or more residential units on the day before issuance of the building permit. Alternatively, the city

can choose to impose a rate on another basis, such as a charge calculated on a per dwelling unit basis (similar to development charges).

Strategy/process

The Act defines the types of projects and capital that can be included in the strategy as: the facilities, services and matters that may be funded within a community benefits charge.

The following are the list of service categories that have been identified for inclusion within the CBC study. These projects primarily entail those which were previously funded from S.37 public benefits, and services which are ineligible for DC funding.

- Public and Performance Arts
- Facilities
- Information Technology
- Parking
- Growth related studies not eligible under DCA.

Each service area covers the following matters:

- Service Description;
- Service Delivery and Service Levels Consideration;
- Estimate of Need;
- Consideration of Excess Capacity;
- Capital Cost;
- Identification of any Anticipated Capital Grants, Subsidies or Other Contributions;
- Consideration of Benefit to Existing;
- Share of Net Capital Costs related to CBC Eligible Developments.

To determine CBC eligible capital costs for the City, the gross capital costs were based on the 2022 capital budget and forecast as well as discussion with staff. Taking into consideration appropriate deductions (as listed above), the resultant net growth related costs were allocated to CBC eligible share of anticipated development as detailed in Chapter 4, of Appendix A.

Financial Matters:

Chapter 5, of Appendix A (Community Benefits Strategy) summarizes the calculation of the CBC charge. Based on the requirements of the legislation, the city has identified \$4.1 million of net growth-related capital costs that are eligible related to high density growth developments as summarized in Table 1.

Table 1: CBC Eligible Cost by Service

Service	Gross Capital Cost Estimate (2022\$)	Net Residential Share (2022\$)	C.B.C.-Eligible Cost (2022\$)
Parking	\$18,500,000	\$3,515,000	\$2,339,295
Performance Arts Centre/Public Art	\$1,994,300	\$863,161	\$574,449
Facilities	\$6,282,095	\$600,854	\$399,879
Information Technology	\$1,489,000	\$462,591	\$307,863
Growth Studies	\$1,190,000	\$632,825	\$447,915
Total	\$29,455,395	\$6,074,431	\$4,069,400

As per the Planning Act, the maximum a municipality can impose for a CBC is equal to 4% of the land value of a property the day before building permit issuance. Based on the total eligible capital costs recovery of \$4.1 million and the underlying land value assumptions, the city is imposing a CBC at approximately 0.6% of land value.

The above translates to a per unit basis as follows:

Table 2: CBC Charge per Unit

Development Type	C.B.C. per Dwelling Unit
Apartments - 2 Bedrooms +	\$488
Apartments - Bachelor and 1 Bedroom	\$362

The city will be structuring the charge on municipal-wide basis, as the services provided are not restricted to one specific area and are anticipated to be used by all residents within the municipality. Furthermore, as represented in Table 2 above, the charge will be presented as a per unit charge as this aligns with the city’s DC structure for apartment dwelling units and assists with the ease of administration and implementation of the charges.

Total Financial Impact

The cash balance in the City’s Public Benefits reserve fund is \$1.1 million as of March 31, 2022 (funds are fully committed as per former s.37 agreements). Based on the transition rules set out by the Planning Act, the balance in the reserve fund will be transferred over to the newly created Community Benefits reserve fund the day of bylaw passage. However, the funds will still be utilized as per the s.37 agreements under which they were collected.

Source of Funding

All Community Benefits Charges monies received by the City will be maintained in the city's newly created Community Benefits Charges reserve fund. The funds will be used based on the capital project listing as defined in Chapter 4, of Appendix A.

Annually, the city provides to Council Treasurer's Statements outlining annual revenues and spending to/from the Development Charges, Park Dedication and Public Benefits (S.37) reserve funds. Going forward, these statements will now include revenues and spending associated with the Community Benefits reserve fund as required by the *Planning Act*. All statements are approved by Council and posted on the City's website.

Other Resource Impacts

Not Applicable.

Next Steps:

Presently, staff are requesting committee table this report, the CBC Strategy, and proposed by-law. Upon completion of community consultation and further staff review staff will bring back any comments received, and amendments to the strategy and bylaw (if needed) to the September 14, 2022, CSSRA committee followed by a special Council meeting given the September 18th, provincial deadline. Recommendations to Council in the Fall will be as follows:

Adopt the CBC approach to calculate the charges on a uniform city-wide basis;

Approve the capital project listing set out in Chapter 4 of the CBC Strategy dated June 27, 2022, subject to further annual review during the capital budget process;

Approve the creation of a Community Benefits Charges reserve fund which will contain all CBC monies collected, with associated bylaw to be brought forward to Council for approval;

Impose the CBC of \$488 per apartment with 2 or more bedrooms and \$362 per bachelor and one bedroom apartment dwelling unit on the day before a building permit is issued;

Approve the CBC Strategy dated June 27, 2022, as amended (if applicable);" and,

Approve the CBC By-law as set out in Appendix B, of the CBC Strategy dated June 27, 2022 with an effective date of September 14, 2022.

Furthermore, Planning staff will review the Official Plan policies in the context of the legislative changes to section 37 of the *Planning Act*, and as it relates to the adoption of the CBC Strategy and bylaw.

Climate Implications

Not Applicable.

Engagement Matters:

The Act requires that a municipality consult with such persons and public bodies as the municipality considers appropriate.

Staff is bringing forward and tabling this report for committee's review to provide a presentation and present findings on the CBC strategy at the July 11, 2022, public meeting of the city's Corporate Services, Strategy, Risk and Accountability committee. After which, the City will hold a consultation session with the development industry during the summer to provide an overview and receive any comments and/or feedback, in advance of anticipated passage of the bylaw in September. Staff will bring this report back along with any comments and amendments (if needed) from the development community and staff for final review and approval on September 14, CSSRA committee, followed by a special Council meeting. The anticipated date in which the bylaw will become effective is September 14, 2022, to meet legislated deadlines.

The 2022 CBC Strategy and proposed bylaw is posted on the city's website through Council staff report and the city's *Community Benefits Charge* webpage, as of July 6, 2022 for public review.

A CBC bylaw may be appealed to the Ontario Land Tribunal. The last day for appealing the by-law is October 24, 2022, 40 days after Council approval. After passing the bylaw, the city will publish notice of bylaw passage within 20 days (October 4, 2022).

Once the bylaw is approved, should an eligible development application view the amount of the CBC as exceeding the amount permitted under legislation, the *Planning Act* requires payment under protest and a defined dispute process to be followed. Given, the city's proposed per unit charge rate as per Table 2 above is reflective of 0.6% of land value, significantly lower than the 4% maximum permitted by legislation, staff don't anticipate disputes on an individual property basis going forward.

Conclusion:

Staff are tabling report F-27-22, the 2022 Community Benefits Strategy, and proposed CBC bylaw for committee's review, discussion and feedback. Staff are requesting that committee table the report and associated recommendations and that it be brought forward for final review and approval on September 14, 2022 to provide opportunity for consultation over the summer.

The Community Benefits Strategy presented has been prepared in accordance with the requirements of the *Planning Act* and recommends the imposition of a CBC and associated policies as defined by the proposed bylaw in Appendix B of the CBC Strategy, dated June 27, 2022.

Respectfully submitted,

Reena Bajwa

Coordinator of Financial Strategies and Business Consulting

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Appendices:

- A. City of Burlington Community Benefits Charges Strategy: Watson & Associates
(dated June 27, 2022)

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.