



SUBJECT: 2022 Community Benefits Strategy and Bylaw

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

FROM: Finance Department

Report Number: F-31-22

Wards Affected: all

File Numbers: 460-01

Date to Committee: September 14, 2022

Date to Council: September 14, 2022

Recommendation:

Adopt the Community Benefits Charge (CBC) approach to calculate the charges on a uniform city-wide basis; and

Approve the capital project listing set out in chapter 4 of the CBC Strategy dated August 17, 2022, subject to further annual review during the capital budget process; and

Approve the creation of a Community Benefits Charges reserve fund which will contain all CBC monies collected, with associated bylaw as per Appendix D of finance department report F-31-22 to be brought forward to Council for approval; and

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; and

Approve the CBC strategy final report dated August 17, 2022 attached as Appendix A to finance department report F-31-22; and

Approve the CBC By-law as set out in Appendix B of the CBC Strategy dated August 17, 2022 with an effective date of September 14, 2022.

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period of two years from the date of proclamation, which is September 18, 2020, after which the former section 37 is no longer applicable, and a community benefits charge strategy will need to be implemented.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
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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
- July 11, 2021 (F-27-22) presentation on Community Benefits Strategy and Bylaw

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

On July 11, 2022, at the Corporate Services, Strategy, Risk and Accountability (CSSRA) public meeting staff tabled the City's 2022 Community Benefits Strategy and bylaw for review and feedback. During the summer months, the Community Benefits Strategy has been posted online and available for public review prior to final approval.

On July 20th, 2022, the city held a consultation session with the development industry to provide an overview and receive any comments and/or feedback, in advance of anticipated passage of the bylaw in September. Overall feedback was positive, with a few questions which are reflected in two (2) written correspondences from the development community, attached as Appendix B and C. Appendix B includes questions posed from BILD, and the staff response. Appendix C includes comments regarding the strategy and bylaw from WE HBA. As no formal questions were provided by, WE HBA, staff is addressing the comments within report F-31-22, as follows.

- All Community Benefits Charges monies received by the City will be maintained in the city's newly created Community Benefits Charges reserve fund. 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. As part of the 2022 annual statements, staff will review and consider how to approach and include the value of in-kind contributions to provide a holistic view on CBC value received.

- In regard to the comments on land valuation associated with redevelopment projects, staff's perspective is that this relates to municipalities that are imposing the charge as a percentage of land value and would not apply to the city's per unit application of the charge. Furthermore, with respect to the treatment of redevelopment projects, this is clearly outlined in the city's response to BILD, found in Appendix B.

Overall, based on the comments and questions received from the public and development community, staff are bringing forward the CBC strategy and by law with no amendments from what was presented to committee and the public on July 11, 2022.

As per the *Planning Act*, an update to the Community Benefits Strategy and bylaw is required every five years. The city will be undertaking a required update to the Development Charges Study and a comprehensive park dedication by law update in 2024. At this time, staff will consider updating the CBC prior to the five-year time horizon to ensure all growth needs are captured in the relevant studies, as these funding mechanisms work together to assist with the principle that growth pays for growth.

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 a 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 June 30, 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.

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 tabled the CBC Strategy and Bylaw at the July 11, 2022, public meeting of the city's Corporate Services, Strategy, Risk and Accountability committee. After which, the city held a consultation session with the development industry on July 20th to provide an overview and receive comments and/or feedback, in advance of anticipated passage of the bylaw in September. This report details comments received, and respective staff response. Staff are bringing forward the CBC Strategy and Bylaw for final approval on

September 14 at CSSRA committee, followed by a special Council meeting. The date in which the bylaw will become effective is September 14, 2022, to meet legislated provincial 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 does not anticipate disputes on an individual property basis going forward.

Conclusion:

Staff are requesting that Council approve the CBC Strategy, bylaw and associated recommendations contained within this report on September 14, 2022 to meet the legislated deadline of September 18, 2022.

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 August 17, 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 Final Report: Watson & Associates (dated August 17, 2022)
- B. BILD submission & City Staff response

C. WE HBA submission

D. Community Benefits Charges Reserve Fund Bylaw

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.