



**SUBJECT:** New development charges and community benefits strategy process

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

**FROM:** Finance Department

Report Number: F-21-23

Wards Affected: ALL

File Numbers: 460-01

Date to Committee: May 31, 2023

Date to Council: June 13, 2023

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**Recommendation:**

Receive and file finance department report F-21-23, regarding new development charges and community benefits strategy process.

**PURPOSE:**

Development charges (DC) are imposed by municipalities on development and re-development to recover growth-related capital costs under the *Development Charges Act*. The City of Burlington's current DC by-law (By-law 29-2019, as amended by By-law 26-2022) will expire June 1, 2024; consequently, the updated by-law must be enacted prior to this date.

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 provisions under the *Planning Act*.

Although the CBC by-law (By-law 66-2022) has not yet expired, it is prudent to align the DC background study and CBC strategy moving forward in order to obtain process synergies and efficiencies. Furthermore, as legislative changes were introduced through Bill 23, *More Homes Built Faster Act, 2022* which placed limitations on the calculation and collection of DCs, the alignment with the CBC strategy will allow the City to recover eligible capital growth costs in order to adhere to the city's long-standing guiding principle in which "*Growth Pays for Growth*" as much as possible.

The purpose of this report is to outline the process, timelines and key requirements to update the City's development charges, community benefits charges and related policies.

### **Vision to Focus Alignment:**

- Increase economic prosperity and community responsive city growth
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### **Background and Discussion:**

#### ***Development Charges Act, 1997 (DCA) and Planning Act (for CBCs)***

The *Development Charges Act, 1997* legislates the process to be undertaken by municipalities to calculate and impose development charges. Prior to Council approval of a new by-law, a background study must be completed in accordance with the provisions of the DCA.

Below is a high-level summary of required steps undertaken to calculate a development charge;

- Anticipated development (amount, type and location)
- Estimated increase in need for service for each eligible service
- Determine DC Net Capital Costs (new growth vs. existing) for the planning period
  - Consider Deductions:
    - Grants, subsidies and other contributions
    - Benefit to existing development
    - Uncommitted excess capacity
    - DC Reserve Fund balances (where applicable)
- Examination of long-term capital and operating costs for capital infrastructure
- Amount of the charge by type of development, including the apportionment of costs - residential and non-residential

The *Planning Act* stipulates how 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 parkland acquisitions, as long as there is no duplication of recovery of the same capital costs. The summary above is similarly applicable for the calculation of CBCs, except that the apportionment of cost would be eligible from high-density residential units only and to a maximum allowable amount of land value (4%).

## Bill 23 Legislative Amendments

The Province has passed numerous Bills that amended the *DC Act, 1997* and *Planning Act* over the last several years, and many of which were reflected in the City's 2022 DC Amendment (By-law 29-2019, as amended by By-law 26-2022).

The most recent provincial legislation, Bill 23, was passed on November 28, 2022 and enacted specific legislative provisions to both Acts as follows;

### DC Background Study and By-law

- Background studies expire every 10 years
  - As the current by-law was enacted prior to Bill 23, the expiry remains at 5 years from the approval date. The new DC Background Study will have an expiry of 10 years
  - By-law can still be updated any time, within the 10-year window
- Historical level of service is extended from a 10 to 15-year period (except Transit)
- Ineligible services
  - Land costs for certain services are not eligible to be recovered through DCs (*awaiting regulations from Province*)
  - Capital cost of studies is ineligible for recovery through DCs
- Development Charge mandatory phase-in
  - Phase-in period of DC rates, beginning with a 20% reduction in Year 1, and reducing by 5% in the subsequent four years at which time the maximum rate applies
- New Exemptions
  - A third residential unit in a new or existing detached, semi-detached or row house
  - Non-profit housing developments (DCs and CBCs)
  - Affordable units, inclusionary zoning units and attainable units (*awaiting regulations from Province*)
- Discounts for Rental Housing Developments
  - Purpose-built rental housing units to receive discount based on the number of bedrooms within the dwelling unit as follows:
    - Three or more bedrooms - 25% reduction
    - Two bedrooms - 20% reduction
    - All other bedroom quantities - 15% reduction
- Maximum Interest Rate for installments
  - Set at the average prime rate plus 1% for set intervals
- Allocation of DC Reserve Funds
  - Required to allocate at least 60% of the balance of DC reserve funds at the beginning of the year for transportation services, commencing in 2023

## Community Benefits Strategy

The legislation provides for exemptions for certain residential units, within development or redevelopment listed below. However, noting that affordable and attainable unit exemptions are not yet in effect as the province has not yet released Bulletin or associated regulations.

- Exemptions
  - Affordable Residential Units, Attainable Residential Units, and Inclusionary Zoning Units

As previously mentioned, the city will make every effort to ensure growth related capital infrastructure is included within the DC background study as permitted by legislation. Any exclusions will be considered in the CBC Strategy, making the alignment of the two studies imperative to maximize the recovery of growth costs.

## **Committees**

The process involves establishing three committees which will consider both the DC study and CBC strategy. (1) Technical Team, (2) Strategy committee and, (3) Consultation committee. The technical team and strategy committee work on the background and technical steps involved in determining the calculations. The Consultation committee provides further input from a public and stakeholder perspective. The roles and membership are summarized below:

Technical Team: consist of City staff from various services that provide technical analysis, identify increase in need for service and related capital costs for growth-related infrastructure. The capital works are represented as Growth projects in the 10-year capital budget and forecast, with further consideration of approved Master Plans. Work with the technical teams is already under way.

Strategy Committee: consist of select senior staff from the Burlington Leadership Team. The primary role of this committee is to provide strategic guidance and input by reviewing the analysis proposed by the technical team and the key policy decisions for the DC and CBC by-laws and associated policies.

Consultation Committee: consist of representatives from the public and stakeholder groups who provide input to the draft calculation and proposed policy amendments. Discussion topics include the methodology, legislative changes and review the draft DC and CBC background information. Membership consists of:

- Members of Council (2)

- Housing and Development Liaison Committee (HDLC) (2)
- Burlington Economic Development Corporation (1)
- Burlington Chamber of Commerce (1)
- Citizens (2)

Members of Council on the Consultation Committee are Councilor Sharman (Chair), and Councilor Bentivegna (Vice-Chair).

### **Development Charges Growth Assumptions**

The growth forecast for the previous (2019) DC Background study utilized the 2011 Halton Best Planning Estimates updated with the 2016 Census information, as the best information available at the time.

Since then, there have been a number of changes to both provincial and regional policy that will impact Burlington's growth forecasts.

#### Regional Official Plan Amendments 48 and 49

Halton Region has amended its Official Plan through Regional Official Plan Amendments (ROPAs) 48 and 49. ROPA 49, among other things, implements the 2051 planning horizon, directing where development will occur over the planning horizon. ROPA 49 was informed by findings of the Land Needs Assessment (LNA) undertaken as part of the Region's Integrated Growth Management Strategy project (IGMS). ROPA 49 was approved as amended by the Minister of Municipal Affairs and Housing on November 4, 2022. The Minister's modifications to ROPA 49 made a variety of changes including the population and employment estimates identified in the LNA. The modifications also introduced a new urban area not previously considered by the Official Plans of both Halton Region and Burlington.

#### Best Planning Estimates

Historically, Halton Region has prepared Best Planning Estimates (BPEs) to provide detailed population and employment estimates by traffic zone for each of the local municipalities in the Region. The BPEs are, among other things, used to inform the infrastructure master planning of the Region and other municipal work such as local Development Charges and Community Benefits Charges. Halton Region had been working toward preparing BPEs to reflect the changes to the ROP through ROPAs 48 & 49 when Bill 23, *More Homes, Built Faster Act, 2022* was introduced and subsequently achieved royal assent in November 2022.

This omnibus bill proposed amending a number of existing statutes including: the *Planning Act*, *Development Charges Act*, and *Municipal Act*, amongst others. One of the outcomes of Bill 23 is that there will be a change in planning authority from Halton Region

to the local municipalities. Upon Royal Proclamation, planning authority will rest with each individual municipality. In response to the need to transition over time, Halton Region is working in collaboration with the local municipalities to prepare Joint Best Planning Estimates (JBPEs) in order to support infrastructure master planning, for which the Region is still responsible. The JBPEs will provide population and employment estimates for 2031, 2041 and 2051. However, these estimates will be subject to change as the local municipalities work to understand the full impacts of ROPA 49, as modified and the Housing Pledge on local population and employment estimates.

### Housing Pledge

Additionally, the City of Burlington has signed a Housing Pledge to demonstrate its commitment to accelerating housing supply and taking the necessary actions to facilitate the construction of 29,000 units by 2031.

The background growth analysis work that informs the DC and CBC work will assess the above factors and determine an appropriate approach.

### **Timelines**

The DC by-law 29-2019 expires June 1, 2024. Staff will endeavor to have the passage of the new DC By-law by April 1, 2024. This creates alignment with the annual indexing of the DC charge, and thereby eliminate multiple changes to city DC rates over a short period of time. Further, it would administratively streamline the process, and offers more predictability and consistency with respect to the city portion of the DC charge.

The following is an approximate timeline to have the new DC By-law enacted on April 1, 2024. Precise dates in order to meet the requirements as legislated by the DCA will be determined once the 2024 Council and Committee calendar of meeting schedules are released. The CBC Strategy will also be brought forward in alignment with the dates below.

Draft Proposed DC By-Law and Background Study, and CBC Strategy <i>(Available to the Public 60 days prior to the passing of the by-law)</i>	January 2024
Notice of Public Meeting of Council (DC Study only) <i>(20 days prior to the public meeting)</i>	February 2024
CSSRA <i>(Statutory Public Meeting)</i>	March 2024
Council Approval DC Study, and CBC Strategy	March 2024
DC & CBC By-law in-force	April 1, 2024
Notice of By-Law	April 2024

<i>(no later than 20 days after the day by-laws are passed)</i>	
Appeal <i>(Last day for appealing the by-laws, 40 days after the day the by-laws are passed)</i>	May 2024

### **Strategy/process/risk**

Watson & Associates Economists Ltd. (Watson & Associates) were retained to provide professional financial advice, legislation interpretation and guidance for the implementation of the 2019 DC Background Study and by-law, DC Update Study and the Community Benefits Strategy and Bylaw in 2022.

Watson & Associates have an extensive background, broad experience and knowledge of Development Charges and Community Benefits Charges, including their recent work with area municipalities and Halton Region. Additionally, they have been involved with the City's previous fiscal impact study, Bill 23 impact analysis and other related works whereby the city is able to obtain synergies and efficiencies.

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### **Financial Matters:**

The costs associated with the update to the City's development charges background study and by-law and Community Benefits Strategy is approximately \$95,000 and \$60,000 (excluding HST), respectively. The costs are funded by a prior approved capital project.

Report F-10-23 Bill 23 Financial Impact Analysis was presented to Corporate Services, Strategy, Risk and Accountability Committee (CSSRA) on March 29, 2023, and provides a detailed financial analysis and various considerations arising from legislative changes from Bill 23 and the impacts to the City. These will be reflected in the above updates.

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### **Climate Implications**

Not Applicable

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### **Engagement Matters:**

The DCA requires that a municipality consult with such persons and public bodies as specifically outlined within the legislation. The requirements under the Planning Act as it pertains to CBC only requires municipalities to consult as it considers appropriate. As

such, staff will be engaging the Consultation Committee (which includes key stakeholders from the public) regarding DCs and CBCs in tandem. Furthermore, both background studies and by-laws will be made available to the public for review and comment 60 days prior to approval by Council.

The City's DC and CBC website will be updated to note the process, and more detailed timelines as it becomes available.

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### **Conclusion:**

This report provides a high-level summary of the process and timelines to complete the new DC Background Study and CBC Strategy. The legislated public meeting will be scheduled in 2024 to meet the draft timelines, in consideration of the DC by-law expiration of June 1, 2024. At that meeting, a presentation will be provided and any comments from public will also be brought forward.

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Respectfully submitted,

Reena Bajwa

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### **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.