



SUBJECT: 2024 Community Benefits Strategy and By-law

TO: Committee of the Whole

FROM: Finance Department

Report Number: F-05-24

Wards Affected: all

File Numbers: 460-01

Date to Committee: December 2, 2024

Date to Council: December 10, 2024

Recommendation:

Approve the Community Benefits Charge Strategy dated November 4, 2024, attached as Appendix A, to finance department report F-05-24; and

Adopt the approach to calculate the community benefit charges on a uniform city-wide basis as set out in the Community Benefits Charge Strategy dated November 4, 2024; and

Approve the capital project listing set out in Chapter 4 of the Community Benefits Charge Strategy dated November 4, 2024, subject to further annual review during the capital budget process; and

Determine that no further public consultation is required; and

Approve the By-law to establish Community Benefits Charges for the City of Burlington, as set out in Appendix B to finance department report F-05-24, and repeal By-law 66-2022.

PURPOSE:

Respond to legislation.

In order to implement a Community Benefits Charges (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. The city has retained Watson & Associates Economists Ltd. to assist in completing the 2024 CBC Strategy.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth

Executive Summary:

The report provides Council with the 2024 Community Benefits Strategy and Bylaw to replace the 2022 Strategy. The Strategy has been updated to align growth assumptions with the 2024 Development Charges Background Study, and to update capital costs.

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. The 2024 CBC Strategy provides for \$81.7 million (21.9% of land value) in eligible parkland CBC costs, which exceeds the legislated maximum of 4% of land value. As such, the city is imposing a CBC at the maximum of 4% of land value, which provides an estimated revenue of \$14.96 million over ten years.

The strategy focuses only on capital costs related to parkland to maximize annual funding received towards a service that is public facing, in which a clear need is defined through the 2023 parkland dedication analysis and Parks Provisioning Master Plan and is a key service to support future growth. Furthermore, the city will be implementing the CBC charge as a % of land value as it is consistent with other municipalities, the CBC revenues will correlate with appreciating land values, and create process efficiencies as it aligns with the parkland dedication process (also % of land value).

Background and Discussion:

In September 2022, to meet legislated deadlines the city put in place its first CBC Strategy and bylaw. At the time, the city was amid infrastructure planning and did not have significant capital needs identified to inform the CBC strategy, therefore, the city's 2022 CBC Strategy identified only \$4.1 million of net growth-related capital costs that were eligible related to high density growth developments. In 2022, the city structured a per unit charge due to the limited capital needs, and to align with the city's existing growth funding tools (development charges, and parkland dedications) which were both per unit charges at the time.

Council received the following reports as it relates to the development of the 2024 Community Benefits Strategy, included herein;

- On May 31, 2023 (F-21-23), Council received the [2024 City of Burlington Community Benefits Process report](#).
- On November 1, 2023 (F-25-23), Council endorsed the [growth assumptions](#) for the Study.

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 several 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.

Strategy/process

As part of the development of the CBC Strategy staff undertook the following:

- Revised growth forecast to align with the City's 2024 D.C. Background Study and by-law as approved by Council ([F-25-23](#));
- Updates to the capital projects using the 2024 Capital Budget and 10-Year Forecast; and
- Inclusion of the parkland dedication amounts not recoverable under the City's current parkland dedication By-law 55-2023, as amended.

As part of the process staff reviewed capital costs for the following services that were included in the 2022 Strategy.

- Public and Performance Arts;
- Municipal Off-Street Parking Facilities;
- Facilities for services not eligible for funding under the D.C.A.;
- Information Technology; and
- Growth-related Studies not eligible for funding under the D.C.A.

In addition to the above list, new to the 2024 strategy was the addition of Parkland service (the excess amounts not recoverable under the Parkland Dedication By-law), as supported by the completion of the parkland dedication analysis in 2023 ([F-11-23](#)).

Inclusion of all services listed above amounted to total CBC eligible costs of \$93.7 million which exceeded the maximum prescribed value based on 4% of land value or \$14.96 million. Since the CBC only applies to specific high-density residential developments and anticipated revenue collection is limited to an estimated \$1.5 million annually over a 10-year period, staff have come forward with a CBC strategy and bylaw that considers parkland only, in order to maximize annual funding received towards a service that is public facing, which has a clear need defined through the 2023 parkland dedication analysis and Parks Provisioning Master Plan and is a key service to support future growth.

The inclusion of all services listed vs. parkland only does not impact the charge. In either case, the city's needs exceed the prescribed maximum, therefore, in both cases the city would still charge a CBC at 4% of land value. The number of services included within the strategy impacts how the city uses revenue received. The strategy as submitted for approval will have 100% of revenue directed to parkland. Whereas, with the inclusion of other services, proportionately based on capital costs, parkland would receive 88% or \$1.3 million of the annual revenue, and the remaining five services would share the remaining 12% or \$178,000 annually. Staff recommend parkland as the only service for inclusion in the CBC to maximize the use of revenue received.

CPPS bylaw

The city is contemplating a Community Planning Permit (CPP) bylaw that will affect the lands within the city’s three Major Transit Station Areas (MTSAs). The intention of the CPP system is to transform how development is assessed and approved in the MTSAs. In accordance with the Community Planning Permit System regulations in the *Planning Act*, a Community Benefit Charge By-law does not apply to land subject to a Community Planning Permit By-law. Staff will be bringing forward a revised Community Planning Permit By-law to a future Council date for approval.

As a result of the exemption, the city cannot collect CBC within the MTSAs. At a high level, the revenue impact is estimated at approximately \$5.8 million. This is based on properties that fall within the CPPS area (based on pipeline data), and their proportionate share based on land value. This is provided as an estimate only and comes with several caveats that will most likely affect the actual figure. The timing of when development occurs and where it occurs are not in the city’s control and will impact CBC revenue earned over the 10 years. Furthermore, revenue is based on land value of the development at the time of building permit issuance, whereas this impact is determined using an average land value assumption. Staff will explore future revenue options for lands within the CPP bylaw as permitted by legislation.

Financial Matters:

Chapter 4 of Appendix A (Community Benefits Strategy) summarizes the calculation of the CBC charge. Based on the requirements of the legislation, the city has identified \$89.1 million of net growth-related parkland capital costs that are eligible related to high density growth developments as summarized in Table 1.

Table 1: CBC Eligible Cost – Parkland Service

Service	Gross Capital Cost Estimate (2024\$)	CBC Eligible Cost (2024\$)	Net CBC Eligible Cost (2024\$)*
Parkland	\$141,588,245	\$89,107,850	\$81,708,851

*After deduction for existing population incline.

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 \$81.7 million and the underlying land value assumptions, the city would require a CBC of 21.9% of land value to fund the required parkland needs. As such, the city is imposing a CBC at the maximum of 4% of land value. The city will be structuring the charge on a municipal-wide basis, as the parkland service is not restricted to one specific area and are anticipated to be used by all residents within the municipality. Furthermore, the charge will be presented as a percent of land value,

which is a change from the previous bylaw which instituted a per unit charge. Imposing a charge at the maximum 4% of land value provides the following benefits to the city,

- Consistent with other municipalities who impose CBC,
- CBC revenues will correlate with appreciating land values,
- Create process efficiencies as it aligns with the parkland dedication process (also % of land value),
- Mirrors capital cost inflation, as annual indexing is not permitted under the CBC

A charge that is % of land value does lack predictability for landowners in forecasting CBC payable, however, it is noted the structure of the charge is identical to the existing parkland dedication charge. Landowners may use appraisals they have on hand, to estimate possible charges payable both on the CBC and park dedication.

Total Financial Impact

The cash balance in the City's Community Benefits reserve fund is \$3.2 million as of June 30, 2024. Of the total, \$3 million of the funds are fully committed as per former s.37 agreements and will be utilized as per the s.37 agreements under which they were collected.

Since, the CBC Strategy was approved in September 2022, the city has collected \$217,000. Most of this funding has been fully incorporated into the 2025 capital budget and forecast.

Engagement Matters:

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

As part of the approval process of the Study and proposed By-law, the City has consulted with the CBC Strategy Committee (senior staff) and Consultation Committee (representatives from the public, development industry and council members).

The draft CBC charge, and process were presented and reviewed by the Consultation Committee over two (2) meetings on: September 16, and October 17, 2024. The main point of discussion from the meeting was the CBC charge structure: % of land value vs. per unit charge.

The Study and proposed by-law was released on November 4, 2024, on the city's *Community Benefits Charge* webpage. The release date was communicated by staff as follows:

- Social Media Posts
- Email to HDLC
- City's website

Comments received since posting the CBC Strategy have been included in Appendix C.

A CBC bylaw may be appealed to the Ontario Land Tribunal. The last day for appealing the by-law is January 20, 2025, 40 days after Council approval. After passing the bylaw, the city will publish notice of bylaw passage within 20 days (December 30, 2024).

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.

Conclusion:

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 November 4, 2024.

Respectfully submitted,

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Appendices:

- A. City of Burlington Community Benefits Charges Strategy Final Report: Watson & Associates (dated November 4, 2024)
- B. Community Benefits Charges Reserve Fund By-law
- C. Public Feedback and Comments

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.