

Report To: Committee of the Whole

Meeting Date: September 6, 2022

Subject: Community Benefit Charge

Recommendation(s)

1. That report FIN-22-25 Community Benefit Charge dated September 6, 2022 be received as information; and
2. That the costs to develop a Community Benefit Charge Strategy be forwarded to the 2023 budget process.

Purpose

The purpose of this report is to provide Council with an update on the new Community Benefit Charge, which comes into effect September 18, 2022, replacing the existing Section 37 Height and/or Density Bonusing provisioned in the *Ontario Planning Act*, 1990.

Background

Bill 108 More Homes, More Choices Act, 2019 brought forward the new Community Benefit Charge regime. In 2020 the Province introduced Bill 197 COVID-19 Economic Recovery Act, 2020 which amended some of the provisions in Bill 108 and received royal assent July 21, 2020. Bill 197 also introduced O.Reg. 509/20, which sets out the prescribed information with respect to the new Community Benefit Charge authority under Section 37 of the *Ontario Planning Act* (the Act).

The new Community Benefit Charge (CBC) is a new funding tool authorized under the Act that allows municipalities to impose a charge against higher density developments. This funding tool allows municipalities to invest in community benefits not currently funded through development charges, such as parking, public art, and cultural facilities.

The CBC applies to residential developments and redevelopments that have at least 5 storeys and/or 10 or more residential units, provided they are not exempt by statute or bylaw, the latter of which may be determined by Council. The CBC is paid as a one-time fee by the property developer or builder based on a maximum rate of 4 percent of land value on the day before issuance of the building permit.

Developments and/or redevelopments excluded from CBC in accordance with O.Reg. 509/20 include:

- Long-term care homes
- Retirement homes
- Universities, colleges, and Indigenous Institutes
- Royal Canadian Legion buildings or structures
- Non-profit housing

CBCs are intended to work in conjunction with Development Charges and Parkland Dedication fees to ensure that municipalities have the tools and resources they need to build complete communities and support the ability to finance the infrastructure necessary to accommodate growth. CBCs can be used to fund the capital costs associated with new growth as long as the costs have not already been recovered from development charges and parkland provisions.

All monies collected under a CBC by-law must be paid into a special account and a municipality must spend or allocate 60 percent of the monies in the special account each year. A CBC Strategy, like the Development Charges Background Study, is required to outline the capital programs to be funded through the CBCs, and similarly, to be updated every five years.

Historically, the Town has leveraged the existing Section 37 Density Bonusing for applications that exceed a site's height and/or density zoned limits in return for a cash contribution. Each negotiation was completed on a site-by-site basis, guided by Official Plan policies and Council adopted guidelines.

This provision of the Act, Density Bonusing, has been repealed effective September 18, 2022.

Analysis/Comments

The existing Section 37 provisions regarding height and/or density bonusing will remain in effect until the Town passes its own CBC By-law or until September 18, 2022 when the new provisions take effect. Also, any Site or Area Specific Zoning By-laws that required a contribution under the existing Section 37, which was enacted before September 18, 2022, will continue to apply; these developments will not be subject to the new CBCs.

As set out in the 2020 Development Charges Study, the Town is anticipated to grow by approximately 2,600 dwellings in buildings that may be subject to a CBC over the ten-year planning period from 2021 to 2030. As set out in the Act, the maximum permissible CBC is capped at 4 percent of land value of the development sites in question. At the 4 percent cap, a high-level estimate of the CBC revenue potential associated with these units ranges from \$1.2 million to \$2.0 million over the ten-year forecast horizon.

While shifting to a new CBC will be a change for developers and Town staff, the 4 percent cap on the land value, along with the limitations for its application, may provide clarity and predictability for those involved to now be able to estimate, at the onset of a project, what the CBC fee for development may be.

Town Staff have reached out to the Local Area Municipalities and have learnt of their statuses with regards to the CBC process. Of the seven (7) responses received:

- Five (5) municipalities have budgeted for the Community Benefit Charge Strategy and are reviewing the value of proceeding;
- Two (2) municipalities (the City of Niagara Falls and City of St. Catharines) have completed a CBC Strategy.

How to Implement Community Benefits Charges:

Before enacting a CBC By-law, municipalities must:

1. Prepare a “Community Benefit Charge Strategy” that identifies:
 - The anticipated amount of development and redevelopment, type and location, where CBC fees will be imposed;
 - Identify the need for facilities and services attributable to the new development and redevelopment;
 - Include estimates of the new facilities and services that would benefit existing development;
 - Include estimates of the capital costs necessary to provide the facilities and services; and
 - Include any capital grants, subsidies and other contributions made to the municipality, or anticipates will be made, in respect of the capital costs included.
2. Adopt a Community Benefit Charge By-law and enacting the Community Benefit Charge Strategy.

The CBC By-laws are appealable to the Ontario Land Tribunal (OLT). On appeal, the OLT may either dismiss the appeal, repeal, amend the by-law, or order Council to repeal or amend the bylaw.

If CBCs are adopted, the Town will be required to prepare a report detailing the status of the CBC account each year, similar to the requirements that govern the Development Charge reporting, including the funds collected, how they were used throughout the year, and what assets were acquired.

The implementation of a CBC strategy is a significant initiative that will result in additional costs and require staff resources to support. When making the decision to proceed, consideration should be given to the costs to implement, the potential revenue generated for new facilities and services that would benefit development that are not covered by development charges and parkland provisions.

Strategic Priorities

3 - Accountability and Transparency

Goal #3 - Build trust and confidence in the Town's operations and services and establish a strong reputation for the corporation.

Financial Impact

Previously approved by-laws approved under Section 37 Density Bonusing will remain in effect and the amounts remain due at issuance of first building permit. If the Town proceeds with implementing a CBC strategy and a new CBC by-law, additional costs will be incurred to engage a consultant to assist with the development of the strategy required to enact the CBC Bylaw.

Conclusion

This report recommends investigating the cost of a CBC Strategy to support the implementation of a new CBC by-law, and recommends including these fees as part of the 2023 budget review.

Respectfully prepared by,



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