




CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Services and Taxation Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	October 17, 2024
SUBJECT/REPORT NO:	Community Benefits Charges By-Law Amendment (FCS24016)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Ailish Brooke (905) 546-6875 Ext.6875
SUBMITTED BY:	Kirk Weaver Acting Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That the draft Community Benefit Charges By-Law Amendment, attached as Appendix "A" to Report FCS24016, be released for public consultation;
- (b) That the January 16, 2025, Audit, Finance & Administration Committee Meeting be designated a Public Meeting to receive feedback on the draft Community Benefits Charges By-Law Amendment, attached as Appendix "A" to Report FCS24016;
- (c) That the City Clerk be directed to provide notice of the Public Meeting in the Hamilton Spectator at least 30 days in advance of the Public Meeting; and
- (d) That Staff be directed to submit a staff report and, if appropriate, a revised Community Benefits Charges By-Law Amendment for Council consideration after the designated Public Meeting.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

EXECUTIVE SUMMARY

Community Benefits Charges (CBCs) are a one-time development fee applied at building permit issuance to development or redevelopment where the building will contain five or more stories and 10 or more residential units. CBCs are equivalent to four percent of the land value, calculated in accordance with Section 37 of the *Planning Act, 1990* (Planning Act), Ontario Regulation 509/20 and the City of Hamilton Community Benefits Charges By-Law 22-158 (CBC By-Law).

CBCs are one of the growth-funding tools available to the City, alongside Development Charges (DCs) and Parkland Dedication fees. These charges help ensure that municipalities have the necessary tools and resources to build complete communities and finance growth-related infrastructure. CBCs are a relatively new growth-funding tool, introduced in 2020 and adopted by the City in 2022. CBCs are permitted to be used to fund a portion of the growth related share of capital projects such as:

- Parking and airport services
- Eligible studies
- Parkland acquisition
- Municipal administration building expansions
- Cultural initiatives
- Public realm improvements
- Landfill expansions

Staff has identified the need to amend the CBC By-law to align with changes to the *Planning Act* which were made through the *More Homes Built Faster Act, 2022* (Bill 23). As part of this review, staff further identified some housekeeping updates, including the removal of outdated sections and the clarification of language. The draft CBC By-Law Amendment (Appendix “A”) would amend the CBC By-law in the following ways:

- Calculation of Community Benefits Charge
 - Section 11, which outlines the way CBCs are calculated, is amended to refer to the *Planning Act*.
- Affordable Housing Developments
 - The definition of Affordable Housing Project is removed.
 - Section 13, which outlines the exemption for Affordable Housing Projects, is removed since the exemption is now legislated and enacted through the Planning and DC Acts.
- Building Permit Definition
 - The definition of Building Permit is amended to align with the Development Charges By-law (24-072).

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- Downtown Community Improvement Area (CIPA) Partial Exemption
 - The definition of Downtown CIPA is removed.
 - The partial exemption applied to development in the Downtown CIPA expired on June 12, 2024. Reference to the exemption through Sections 6 and 14 is removed.

The *Planning Act* does not mandate a specific approach for amending the CBC By-law. However, to ensure the process remains transparent and accountable, the recommendations to Report FCS24016 are structured to align this proposed CBC By-law amendment process with the process used for DC By-law amendments. Specifically, releasing a staff report indicating intent to amend, ensuring a minimum 60-day consultation period and establishment of a Public Meeting. Staff is recommending that the draft CBC By-law Amendment (Appendix “A” to Report FCS24016) be released for public consultation and that the associated public consultation activities be initiated, including a Public Meeting to be held at the January 16, 2025 meeting of the Audit, Finance & Administration Committee.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: Approval of the recommendations would initiate the process to better align the CBC By-law with the applicable legislation.

HISTORICAL BACKGROUND

July 21, 2020	The <i>COVID-19 Economic Recovery Act, 2020</i> (Bill 197) received Royal Assent. This Act amended Section 37 of the <i>Planning Act</i> and established that any municipality in Ontario can create and collect a CBC from new or redeveloped buildings where the building contains five or more stories and 10 or more residential units.
June 22, 2022	Council adopted the CBC By-Law.
September 18, 2022	The CBC By-Law came into force.

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- November 28, 2022 The *More Homes Built Faster Act, 2022* (Bill 23) received Royal Assent which amended and added to Section 37 of the *Planning Act* to implement a maximum CBC based on floor area and authorized an exemption for Affordable Housing Developments to come into force on a date to be proclaimed.
- June 1, 2024 The exemption of CBCs, DCs and Parkland Dedication fees for Affordable Housing Developments was proclaimed.
- June 12, 2024 The partial exemption of CBCs in the Downtown CIPA as required by Section 14 of the CBC By-law expired.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The intent of the recommendations to Report FCS24016 are to align the City’s CBC By-law with the *Planning Act* following the legislative changes introduced by the Province.

RELEVANT CONSULTATION

Communications, City Manager’s Office
Housing Secretariat Division, Healthy and Safe Communities Department
Legal and Risk Management Services Division, Corporate Services Department
Office of the City Clerk, Corporate Services Department
Real Estate Services, Planning & Economic Development Department

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

Calculation of Community Benefits Charge

Section 11 of the CBC By-Law outlines the methodology for determining the amount of CBCs applicable to a development. The *More Homes Built Faster Act, 2022* (Bill 23), which came into force on November 28, 2022, amended Section 37 of the *Planning Act* to specify using a floor area ratio in conjunction with the four percent of land value to determine the applicable CBC. As the *Planning Act* supersedes the CBC By-law, it represents the current process for calculating CBCs. Staff proposes amending the CBC By-law to reference the *Planning Act* directly to avoid conflicting policies.

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Affordable Housing Developments

On June 1, 2024, the legislated exemption for Affordable Housing Developments through the Planning and DC Acts took effect. Staff is recommending that the definition of Affordable Housing Project referenced in the CBC By-law be removed. Additionally, staff is recommending that CBC By-law be amended to remove Section 13, which outlines a discretionary exemption for Affordable Housing Projects. With the provincial legislation now in effect providing for a mandatory exemption, the discretionary exemption is no longer needed.

Building Permit Definition

The 2024 DC By-law (By-law: 24-072), effective June 1, 2024, includes the City's most current language to define a Building Permit. Staff is recommending a minor update to align the definition of Building Permit in the CBC By-law with the DC By-law. The current definition of a Building Permit in the CBC By-law is "a building permit issued pursuant to the *Building Code Act*;" the proposed amendment seeks to refine this definition to "a building permit issued pursuant to the *Building Code Act* in relation to a building or structure" to the definition.

Downtown Community Improvement Area (CIPA) Partial Exemption

Sections 6 and 14 of the CBC By-law included a 40% partial exemption for CBCs in the Downtown CIPA. This partial exemption expired on June 12, 2024. Council has not provided direction to review the exemptions provided through the CBC By-law and, therefore, staff has not provided recommendation to alter this exemption nor other exemptions contained in the CBC By-law as part of this CBC By-law Amendment. It should be noted that consideration of reinstating the Downtown CIPA partial exemption would be inequitable for development applications (Site Plan and/or Building Permit) received between June 12, 2024 and enactment of the CBC By-law Amendment as such developments would be ineligible for the exemption. With the exemption expired and no longer applicable, staff is recommending that the definition of Downtown CIPA and Sections 6 and 14 of the CBC By-law be removed.

ALTERNATIVES FOR CONSIDERATION

Not Applicable

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS24016 – Draft Community Benefit Charges By-law Amendment