




CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	January 16, 2025
SUBJECT/REPORT NO:	Community Benefits Charges By-Law Amendment (FCS24016(a))
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Ailish Brooke (905) 546-2424 Ext.6875
SUBMITTED BY:	Kirk Weaver Acting Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATION

That the Community Benefits Charges By-Law Amendment, Appendix “A” to Report FCS24016(a), be passed and enacted.

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 eligible capital projects.

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.

**SUBJECT: Community Benefits Charges By-Law Amendment (FCS24016(a))
(City Wide) – Page 2 of 6**

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 As part of this review, staff further identified some housekeeping updates, including the removal of outdated sections and the clarification of language. If enacted, the 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).
- Downtown Community Improvement Project 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.

Through approval of the recommendations to Report FCS24016, Council released the CBC By-Law Amendment (Appendix “A”) for public consultation on October 23, 2024 and established the Audit, Finance & Administration Committee meeting on January 16, 2025 as a Public Meeting. Report FCS24016(a) is to be considered following the completion of the Public Meeting. At the time of writing Report FCS24016(a), staff has received no feedback to the proposed amendments as the proposed changes are largely driven by compliance and housekeeping. Approval of the recommendation to Report FCS24016(a) would enact the CBC By-Law Amendment (Appendix “A”). Appendix “B” provides a track changes version of the CBC By-Law should the proposed amendments be enacted.

Alternative for Consideration – Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The proposed amendments are not expected to have any significant impact on CBC collections.

Staffing: None.

Legal: Legal Services has supported the development of the proposed amendments to the CBC By-Law.

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 Planning Act 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.
November 28, 2022	The <i>More Homes Built Faster Act, 2022</i> (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.
October 17, 2024	Report FCS24016 was presented to the Audit, Finance & Administration Committee where the CBC By-Law Amendment (Appendix “A”) was approved to be released for public consultation and January 16, 2025 was designated as a Public Meeting in relation to the amendment.
December 14, 2024	The City Clerk provided notice of the Public Meeting in the Hamilton Spectator.
January 16, 2025	Designated Public Meeting on the CBC By-Law Amendment (Appendix “A”).

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The intent of the recommendation to Report FCS24016(a) is 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
Development Industry Liaison Group, City of Hamilton
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 RECOMMENDATION

Report FCS24016(a) recommends adopting amendments to the CBC By-Law to ensure alignment with changes to provincial legislation under Bill 23. The amendments are necessary to bring the CBC By-Law into compliance with updates to the Planning Act, incorporating direct references. Additionally, the proposed amendments would remove outdated sections of the CBC By-Law.

Through Report FCS24016, staff presented proposed amendments to the CBC By-Law to address the calculation of CBCs, removal of the Affordable Housing exemption, amendment of the Building Permit definition and removal of the reference to the obsolete Downtown CIPA partial exemption. As of the time of drafting this report no feedback has been received by staff during the public consultation period which began on October 23, 2024. Approval of the recommendation to Report FCS24016(a) would enact the CBC By-Law Amendment (Appendix "A"). Below is a summary of Proposed Amendments.

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. 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.

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 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 reference 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.

ALTERNATIVE FOR CONSIDERATION

If significant feedback or opposition is received during the Public Meeting on January 16, 2025, Council may direct staff to prepare an updated report and revised by-law amendment incorporating the received delegations, to be presented for consideration at a future meeting of the Audit, Finance & Administration Committee.

Financial: None.

Staffing: None.

Legal: None.

Pros: This option allows Council to incorporate public input, demonstrating responsiveness and ensuring the by-law reflects community perspectives.

Cons: This option would delay enactment of the by-law amendments. However, incorporating public feedback is an essential component in the process.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS24016(a) – Community Benefits Charges By-law Amendment

Appendix “B” to Report FCS24016(a) – Community Benefits Charges By-Law with Tracked Amendments

AB/dt