

REPORT TO: Finance and Corporate Services Committee

DATE OF MEETING: June 5, 2023

SUBMITTED BY: Ryan Hagey, Director of Financial Planning & Reporting, 519-741-2200 ext. 7353

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WARD(S) INVOLVED: All Wards

DATE OF REPORT: April 5, 2023

REPORT NO.: FIN-2023-255

SUBJECT: Community Benefits Charge (CBC) Direction

RECOMMENDATION:

That staff be directed to develop a Community Benefits Charge (CBC) strategy and bylaw;

REPORT HIGHLIGHTS:

- The purpose of this report is to get direction from Council to proceed with the development of a Community Benefits Charge (CBC) strategy and bylaw.
- This report supports the delivery of core services.

BACKGROUND:

Through a series of legislative change in 2019/2020, the Provincial government introduced a new funding mechanism named the Community Benefits Charge (CBC). In their words the CBC is:

“a flexible new tool under the Planning Act that helps municipalities tackle the costs of higher density in communities with new developments. This tool replaces the former section 37 height and density bonusing in the Act, subject to transition rules.

Municipalities can use community benefits charges to fund the capital costs of any public service associated with new growth, including parkland, if those costs are not already recovered from development charges and parkland provisions.”

CBCs cannot exceed 4% of the value of the land and are for developments with 10 or more residential units and five or more storeys. Single-tier and lower-tier municipalities can levy CBCs, whereas upper tier municipalities like the Region of Waterloo cannot. Staff are aware of 18 municipalities having adopted a CBC, with half of them (9) being appealed at their implementation. Other municipalities have decided not to move forward with a CBC at all given the administration considerations compared to the amount of potential revenue that it would generate, or are waiting to consider a CBC alongside their development charge bylaw. Locally, the City of Waterloo has passed a CBC, but Kitchener and Cambridge have not.

REPORT:

Staff are seeking direction from Council to begin the process of implementing a Community Benefits Charge (CBC). In order to levy a CBC, a municipality must:

- a) Develop a CBC strategy, and
- b) Pass a bylaw

The work required to implement a CBC is specialized and still relatively new so it would require the assistance of external consulting services to complete. It is also important to note that CBC bylaws may be appealed to the Ontario Land Tribunal, so professional expertise in developing the strategy and bylaw is highly recommended by staff.

Before proceeding with a CBC strategy & bylaw, staff are seeking direction from Council as to whether there is a desire to entertain implementing a CBC at this time. A CBC could help provide funding for new City infrastructure, but also seems contrary to recent Provincial legislation which tries to reduce the fees charged by municipalities for new development. Given current economic conditions, additional fees may not be received well by the development industry at this time. Also, it should also be noted that the additional costs of a CBC could impact the viability of some projects that seek to create affordable/attainable housing options.

Some of the pros and cons of a CBC are noted below.

Pros

- CBCs could replace lost revenues from eliminated development charge (DC) services and caps on parkland dedication fees.
 - As part of Bill 23, the Provincial government removed some services from DC legislation. Services like Parking, Cemeteries, and Studies are no longer DC eligible but could instead be funded by CBCs.
 - Bill 23 also significantly (estimated between 50%-85%) reduced the amount of funding the City can collect for cash-in-lieu of parkland. CBCs could be used to help replace these lost funds.
- CBCs could be used for services that are not included in the DC study
 - Another option is to use CBCs to fund new service areas that are not included in the City's DC study. One example is affordable housing, which has been included in some other municipal CBC strategies.

Cons

- CBC revenues would not be enough to cover the lost revenues from Bill 23, let alone fund new service areas.
 - Lost revenues because of Bill 23 were estimated at \$14M/year (see report DSD-2022-501 Bill 23 More Homes Built Faster Act – Kitchener Comments). The exact amount of CBC revenues will not be known until detailed analysis is completed, but it will likely be considerably less. For instance, Waterloo which is smaller than Kitchener, but has a number of multi-unit residential developments have estimated their annual CBC revenues will be around \$500,000/year or less. Oakville which is more comparable in population has estimated their CBC revenues to be around \$1.2M/year. Staff estimate Kitchener's annual revenues will be closer to Oakville's, but this won't be known until detailed calculations of estimated development are completed for Kitchener.

- CBCs would only apply to medium and high intensity developments.
 - Only buildings that have at least 5 storeys and 10 residential units would pay a CBC. Other growth-related development fees (e.g. development charges) are paid by all types of development. It could be seen as unfair for more challenging to construct forms of development to pay for lost revenues due to legislative changes (e.g. Bill 23) or to fund new services (e.g. affordable housing).
- CBCs would require additional administration and cost.
 - Each application of a CBC requires a land valuation to determine the amount of the charge. Based on the approach taken by other municipalities, a standard land value for a geographic area could be used and updated regularly, but this work is currently not done by the City on a regular basis, so would be additional cost/work load.
 - If a developer disagrees with the valuation, they can appeal. This would be time consuming to mediate or defend on appeal at the Ontario Land Tribunal.

STRATEGIC PLAN ALIGNMENT:

This report supports the delivery of core services.

FINANCIAL IMPLICATIONS:

Existing funding of approximately \$100,000 is available to complete a CBC strategy and bylaw.

The amount of revenues generated by CBCs in Kitchener will not be known without completing more analysis towards developing a CBC strategy. CBC revenues are dependent on the amount of development that is at least 5 storeys tall and includes 10 residential units, and land values at the time the development moves forward.

COMMUNITY ENGAGEMENT:

INFORM – This report has been posted to the City’s website with the agenda in advance of the council / committee meeting.

PREVIOUS REPORTS/AUTHORITIES:

- FIN-20-054 Development Charge (DC) & Community Benefit Charge (CBC) Update
- *Planning Act O. Reg. 509/20: COMMUNITY BENEFITS CHARGES AND PARKLAND*

APPROVED BY: Jonathan Lautenbach, Chief Financial Officer, Financial Services