

## Committee of the Whole (Working Session) Report

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**DATE:** Wednesday, November 3, 2021

**WARD(S):** ALL

**TITLE:** 2022 CITY-WIDE DEVELOPMENT CHARGES BY-LAW AND CBC STRATEGY UPDATE

**FROM:**

Michael Coroneos, Deputy City Manager, Corporate Services, City Treasurer and Chief Financial Officer

**ACTION:** FOR INFORMATION

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**Purpose**

To provide Council with the background related to the update of the City-Wide Development Charges (“DC”) Background Study and related By-laws and the creation of a new Community Benefits Charge (“CBC”) Strategy in alignment with legislative changes resulting from Bills 108/138/197.

**Report Highlights**

- Legislative changes to the *Development Charges Act* (“DCA”) will be reflected in the DC Study and By-law update
- Population and Employment forecast will be used from the 2018 DC Study and capital forecasts will be assessed out to 2031
- Staff will look to make adjustments to the DC by-law and administrative practices where practical
- A CBC Strategy will be created in tandem with the City-Wide DC Study to maximize collections across all funding sources

**Recommendations**

1. That the 2022 City-Wide DC Study By-law and CBC Strategy update report and presentation material prepared by Hemson Consulting Ltd. be received by Council.

## **Background**

On June 6, 2019, *Bill 108, More Homes, More Choice Act*, 2019 received royal assent and outlined several changes to the *Development Charges Act* (“DCA”) and the *Planning Act*, R.S.O, 1990 (“Planning Act”). These changes were further amended by Bill 138, *Plan to Build Ontario Together Act*, 2019 and by Bill 197, *COVID-19 Economic Recovery Act*, 2020. These bills received royal assent on December 10, 2019 and July 21, 2020 respectively.

In addition to changes to the DCA, Bill 108 had proposed changes to municipal authority whereby Section 37 of the *Planning Act*, height and density bonusing would be replaced with a Community Benefits Charge that would be applied to new developments. This charge would be used to fund the initial round of capital cost for projects (or shares of projects) that are not already funded through development charges or for services that are growth-related but ineligible for DC funding. This could include capital such as public art, parkland enhancements, and other items that would have been previously funded through Section 37.

An update to the City-wide DC Study will allow staff to make adjustments in alignment with the new legislation and will provide an opportunity for departments to make adjustments to their capital plans for services where department priorities have changed. Undertaking a City-Wide DC update concurrent to the CBC Strategy will also ensure that the City maximizes its possible revenues between both funding sources.

It is not anticipated that this update will be as fulsome as a typical City-wide DC update as many departments have not completed their master plans or the Official Plan that are typically used to inform the DC Study. This update will be less involved and as a result a subsequent update in less than the prescribed 5 years will likely be required once the departmental master plans have been completed.

## **Previous Reports/Authority**

N/A

## **Analysis and Options**

### ***Changes to the Development Charges Act are to be reflected in the updated City-Wide Development Charges Background Study***

Bills 108/138/197 included changes to the DCA which included the removal of the requirement for 10% co-funding on soft services such as libraries, parks, indoor recreation and development related studies. As a result, these services may now be funded fully from DCs to the extent that they are related to development. This would

provide for increased DC funding envelopes, which are determined based on the historical 10-years of spending for soft services. It is anticipated that this upward pressure will result in more projects falling to post period. Costs that cannot be absorbed in the City-Wide DC study due to service level funding gaps will be reviewed and considered for eligibility in the CBC Strategy.

In addition to the removal of the requirement for co-funding, the new legislation also provided for a listing of DC eligible services. Some services that are not considered DC eligible such as public art and parking may be included in the CBC Strategy.

***As the update to the City's Official Plan is ongoing, the growth forecasts from the 2018 DC Study will continue to be used***

Due to the timing of the ongoing work related to population and employment updates at both the Region and the City of Vaughan, staff have determined that the best approach to the 2022 City-Wide DC Study and the CBC Strategy would be to maintain the same population and employment figures out to 2031. The targets in the DC model will be based on an approved 45% intensification target. Development Finance staff will continue to work collaboratively with Planning and Growth Management staff to ensure alignment with the growth targets and should any additional information be made available prior to the approval of the DC Background Study or CBC Strategy it will be considered as a part of these works.

***The City will look to adjust the Development Charges By-laws and administrative practices where practical***

The Region is currently in the process of updating their Background Study and By-law. Staff have been engaged in discussions with the Region and will look to align the DC Background Study and CBC Strategy and related By-laws with the Region on policy and rate issues where practical to do so.

One item that will be considered is the treatment of new emerging housing options such as stacked townhouses, tiny homes and additional residential units. Within the Region and City of Vaughan stacked townhouses are currently treated as multiple-unit dwellings. The 2016 Census included stacked townhouse units under the definition of an apartment in a building that has fewer than five storeys. City staff will evaluate these dwelling units and the appropriate DC rate which could allow stacked townhouses to be charged at the lower rate. Additionally, it is proposed that tiny homes that are 700 square feet or less would be charged DCs at the small apartment rate or alternative small unit category. Both at the Regional and Municipal level, these homes would have been traditionally charged at the Single/Semi DC rate.

Subject to restrictions, the DCA now provides for exemptions for additional dwellings in, or ancillary to, existing residential buildings and secondary suites in, or ancillary to new residential units. The City's updated DC by-law will be reflective of these new exemptions.

There are also a series of DC exemptions that are already in place at the Region that City staff are also considering. This includes exemptions for places of worship (up to 5000 square feet), exemptions to playing and pool surfaces of indoor sports facilities and exemptions to those developments that do not connect to City sewer and water.

***The DCA includes other legislative changes that will be reflected in the City's 2022 DC By-law***

The amended DCA requires rental, non-profit housing and institutional developments to phase-in their DC payments beginning at occupancy. The installments outlined in the DCA are as follows:

- Equal annual installments over 6 years for rental housing
- Equal annual installments over 21 years for non-profit housing
- Equal annual installments over 6 years for institutional development

The City enacted a policy in May 2020 that allows for interest to be paid on DCs that are eligible for phased payment at a rate of 5% annually. In addition to this policy, the 2022 DC By-law will also be updated to be reflective of this change.

The DCA also now allows for existing rental buildings to convert common areas to new units and be exempted from DCs. This provision is limited to additional units being equivalent to the greater of one and one percent of existing units and there must be at least four dwelling units in the existing development. The City will update the 2022 DC By-law to reflect this change.

***The CBC Strategy replaces the Section 37 provisions of the Planning Act***

Section 37 of the *Planning Act* was a planning tool that permitted the City to authorize increases to height and/or density through a site-specific zoning by-law in return for community benefits such as specified facilities, services or other matters from landowners. As a part of Bills 108/138/197, the Planning Act was revised, and the original Section 37 provisions were replaced by the Community Benefits Charge which allows a municipality to impose CBCs against land to pay for first round capital costs of

facilities, services and matters required because of the development or redevelopment in the area to which the by-law may be applied.

The amendments to the DCA and Planning Act as they relate to the CBC received royal assent in June 2019, but a two-year transitional period was provided. As such municipalities have until September 18, 2022 to develop their CBC Strategies after which time the Section 37 payments will be phased out.

***The CBC targets higher density developments and is capped at a percentage of land value***

A Community Benefits Charge is a charge levied in order to fund the initial rounds of growth-related capital. The charge can only be applied against higher density developments that are five or more storeys and contain ten or more residential units. This charge would then be further capped at four (4) percent of the value of the development lands as valued the day before the building permit is issued.

***The CBC Strategy is prepared in a similar fashion to the DC Study and DC eligible projects may also be CBC eligible***

CBCs can be used to fund a variety of initial capital costs. DC eligible services may be included in the CBC strategy, therefore there may be some instances where a project may appear in both studies but there can be no overlap of costs. Staff will look to maximize DC collections and where funding envelope restrictions exist in the DC Study, consideration will be made towards moving capital projects that benefit high density development areas over to the CBC Strategy to maximize funding.

Other potential services that will be explored and considered for their inclusion in the CBC Strategy include, but are not limited to:

- Affordable housing
- Public art
- Parking facilities
- Service level increases
- Public realm enhancements

The approach to the CBC Strategy is similar to the preparation of a DC Study in that a CBC Strategy is required to include forecasts of development and redevelopment of lands to which the CBC will be imposed. Staff will also be required to prepare an estimate of the increased need for services that would arise from the development and

redevelopment of these lands. Finally, a capital plan is required that identifies facilities and/or services that are to be funded using CBCs. The same adjustments required in a DC Study such as excess capacity, benefit to existing and other adjustments would also apply. In order to align with the DC Study, this CBC Strategy will be prepared to a time horizon of 2031.

### ***CBC Administration is similar to DC administration with some variations***

Many aspects of the administration of the CBC strategy will be similar to DC administration. A CBC by-law is required and notice of said passage of the by-law is also required, but it should be noted that unlike a DC by-law, a municipality may only pass one CBC by-law. Consultation is also required, although not defined in the legislation, and the development industry has the right to appeal the by-law to the Ontario Land Tribunal. Staff intend to consult with the development industry and sessions will be planned for the beginning of 2022 and will continue through to by-law passage. Detailed information on the DC Study and CBC Strategy will be provided through these sessions.

A special account must be established for the collection of CBCs, including an annual report that shows opening and closing balances of the special account, with all transactions made public. Unlike the DCs, a municipality is required to spend or allocate at least 60% of the funds collected in each calendar year.

Regardless of the CBC rate in place, the maximum upset limit of the charge can be no more than four (4) percent of the value of development lands. This would be based on an appraisal of the lands one day prior to building permit. The City is required to maintain a list of at least three accredited appraisers that are under agreement with the municipality. There is a detailed dispute resolution process included in the legislation should a disagreement over land values arise.

### ***The CBC rate structure is not defined in the legislation and options are being explored***

As the Bills 108/138/197 legislation does not define the required rate structure for the CBC, staff are exploring a variety of options with the goal of maximizing revenue collections and ease of administration. The options being explored include:

- Percentage of Land Value (maximum of 4% for all eligible developments)
- Rate on a per square meter of gross floor area (GFA)
- Rate on a per unit basis

The percentage of land value approach would create a strong relationship to the four (4) percent cap and would allow the City to maximize revenue collections. If this approach was used it would tie closely with the current practices as they relate to cash-in-lieu of parkland collections and appraisal processes. The charge would also adjust in response to land values, so there would be no need to index rates.

A rate charged on a GFA basis is another approach to charging CBCs, however, this approach would be more difficult to tie into the four (4) percent cap and it would not ensure CBC revenue collections are maximized. It could allow for more predictability for the development industry as the charge could be easily calculated in advance of the payment. There may also be the need for other considerations such as a different rate for non-residential GFA pertaining to mixed use developments. Annual indexing of the rate would also be required, and the determination of the indexing rate may be a complex process. A rate charged on a per unit basis would be similar to the approach of calculating based on GFA and would come with similar advantages and challenges.

As staff review these various rate options, they will also be closely following the approach taken by other municipalities that are advancing their CBC Strategies. Where practical, staff would like to maintain alignment with other municipalities in the GTA for consistency with implementation and predictability for the development industry.

***Parkland acquisition and cash-in-lieu policies and by-law are also under review***

It should be noted that as the work on the DC Study and CBC Strategy progresses, Parks and Open Space Planning staff are also working with their consultant, The Planning Partnership, on the Parkland Dedication Study. This Study will update/present guidelines, ideas and concepts to help inform future policies related to parkland provisions of the *Planning Act*. The Study will also assist the City in achieving its goal with respect to developing the public parkland system and meeting existing parkland needs and future population growth. It will build upon the existing cash-in-lieu policies and by-laws including the use of community benefits associated with cash-in-lieu funding, dedication protocols, standards, and best practices, conveyance requirements, valuation, credits, exemptions and other matters of interpretation identified under Bills 108/138/197.

The parkland dedication, DC and CBC are all growth-related development revenue tools, and are very much interrelated. Due to this interconnectivity, Development Finance and Parks and Open Space Planning Staff and their respective consultants are working in close collaboration to ensure cohesiveness between these studies.

## **Financial Impact**

All funding for the 2022 City-Wide Development Charges By-law and CBC Strategy are included in existing approved Financial Planning and Development Finance capital projects.

The outcome of these projects will impact the entire corporation as the 2022 City-Wide Development Charges Background Study and By-laws and CBC Strategy will be used in future fiscal planning and decision making.

## **Broader Regional Impacts/Considerations**

The Region is currently working on an update to their Development Charge By-law which is anticipated to be completed by June 2022. Throughout the process City staff will participate in meetings with Regional staff to receive updates and provide feedback on proposed by-law policy revisions. In addition to these meetings, City staff intends to engage Regional staff regularly during the City-Wide By-law update to ensure coordination and cohesiveness between the approach of the Region and the City. Where possible the City will look to align our by-laws with the Region to allow for ease of administration and to provide consistency with how development charges are applied across all levels of government.

## **Conclusion**

The overall objective of the Development Charge Update and the development of a CBC Strategy is to achieve the fullest cost recovery allowable under legislation. Completion of the 2022 Development Charges Background Study, area specific development charges, CBC Strategy and related by-laws is a vital step towards ensuring long term financial sustainability for the City of Vaughan by ensuring that revenue collections are in line with anticipated growth pressures to be experienced by the City.

**For more information**, please contact: Brianne Clace, Project Manager of Development Finance ext. 8284 or Nelson Pereira, Manager of Development Finance ext. 8393

## **Attachments**

N/A

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