REPORT FOR ACTION

Growth-Related Funding Tools - Community Benefits Charge

Date: June 27, 2022
To: Executive Committee
From: Chief Financial Officer and Treasurer, and Chief Planner and Executive Director, City Planning
Wards: All

SUMMARY

The Province of Ontario introduced legislative changes to the *Planning Act* and *Development Charges Act* which necessitates the City to review and update of three of its growth-related funding tools (GFTs):

- Development Charges (DC);
- Community Benefits Charge (CBC); and
- Alternative Parkland Dedication Rate.

This report is one of three being presented concurrently to City Council for consideration and recommends a CBC bylaw and strategy in compliance with provincial legislation. The recommended approach incorporates feedback from consultation with various stakeholders and city staff.

The Community Benefits Charge (CBC) is set out in the new Section 37 provisions of the *Planning Act* replacing the current authority to permit increased height and/or density in return for the provision of a benefit or cash contribution ('Density Bonusing'), which expires on September 18, 2022. The new Section 37 authorizes a municipality to collect CBCs against land to pay for the capital costs of facilities and services required as a result of development or redevelopment. The City is required to enact a CBC bylaw, supported by a CBC strategy, before it can collect CBCs.

The CBC applies a maximum standard rate to developments that have at least 5 storeys and 10 or more residential units, provided they are not exempt by statute or bylaw, the latter of which may be determined by Council. Previously, Section 37 Density Bonusing was determined on a site by site negotiation, guided by Official Plan policies and Council adopted guidelines. The new Section 37 Community Benefits Charge is based on the appraised value of the land and restricted so that the charge cannot exceed four percent of land value at the time a building permit is issued.

Based on an assessment of applications in the City's development approval pipeline and projected land values, it is anticipated that the changes to Section 37 will result in the City collecting significantly less revenues than the current Section 37 Density Bonusing approach, notwithstanding that the CBC may apply to a wider range of developments. While the intention of GFTs is that growth should pay for growth, the four percent cap for the CBC is not sufficient to fully offset CBC eligible growth-related capital costs. Based on the growth forecast, the City anticipates it will recover an average annual amount of $70 million each year over the next 10 years through CBCs, before the proposed exemptions and transition discussed in the report. However, the CBC Strategy estimates the City will require upwards of $2.3 billion in CBC eligible net costs over the same 10 year timeframe as a result of eligible development. This leaves the City with a remaining funding gap of almost $1.6 billion.

A municipality may by bylaw collect CBCs against land to pay for the capital costs of facilities, services and matters required because of development or redevelopment in the area to which the by-law applies. Accordingly CBCs can be used to fund a broad list of services and facilities as outlined in the CBC Strategy in Attachment 2. Each year, the City must allocate or spend at least 60% of the special account, where all CBC funds are collected and held. To ensure compliance with this requirement, allocation to specific capital projects and initiatives will be reviewed and recommended through the annual budget process.

The CBC approach recommended by staff also provides additional incentives for affordable housing programs by exempting in the CBC Bylaw both Housing Now developments, including market units and Affordable Housing units secured through a municipal housing facility agreement from a CBC payment. In addition, complete applications for residential development in the City's development pipeline that are less than 10,000 square metres will not be subject to the CBC. The above policies that advance City priorities and protect development projects in the pipeline are estimated to further reduce anticipated CBC revenues initially by about $36 million annually.

To authorize use of the new CBC authority by September 18, 2022, which is the expiration of the current Section 37 Density Bonusing regime, this report recommends adoption of a CBC Bylaw; endorsement of the CBC Strategy; amendments to the Municipal Code to include the CBC appraisal fee; and establishment of the legislatively required CBC reserve fund. In the next phase, further work on implementation, including allocation and resourcing, will continue and will be brought to City Council in 2023.

RECOMMENDATIONS

The Chief Financial Officer and Treasurer and Chief Planner and Executive Director, City Planning, recommend that:

1. City Council adopt the Community Benefits Charge By-law in Attachment 1 to this report.

2. City Council authorize the City Solicitor to make such stylistic and technical changes to the Community Benefits Charge By-law as may be required.

3. City Council endorse the Community Benefits Charge Strategy dated April 2022 and CBC Strategy Addendum dated June, 2022 (the "CBC Strategy") included as Attachments 2 and 3 to this report.

4. City Council approve the establishment of a Reserve Fund Group named "Community Benefits Charges Reserve Fund Group" in Appendix C, Schedule 12 – *Planning Act* Obligatory Reserve Funds in the City of Toronto Municipal Code Chapter 227, Reserves and Reserve funds, the purpose of which is to hold funds for Community Benefits Charges, with separate accounts consisting of the original Section 37 Reserve Fund to be renamed "Community Benefits – Original Section 37 Reserve Fund" and the new "Community Benefits Charges Reserve Fund", with policies and criteria set out in Attachment 5.

5. City Council approve the establishment of an obligatory reserve fund named "Community Benefits Charges Reserve Fund" in Appendix C, Schedule 12 – *Planning Act* Obligatory Reserve Funds in the City of Toronto Municipal Code Chapter 227, Reserves and Reserve Funds, the purpose of which is to hold funds from Community Benefits Charges with criteria set out in Attachment 5.

6. City Council amend the fee schedule Municipal Code Chapter 441, Fees and Charges, Appendix C, Schedule 11, is amended by deleting the Fee Description in Reference # 18, which currently reads "Appraisal Fee for Parks Levy Calculation - Base Fee", and replacing it with "Appraisal Fee for Parks Levy Calculation and/or Community Benefits Charge - Base Fee".

7. City Council amend Municipal Code Chapter 441, Fees and Charges, Appendix C, Schedule 11 by deleting the Fee Description in Reference # 19, which currently reads "Appraisal Fee for Parks Levy Calculation – Variable", and replacing it with "Appraisal Fee for Parks Levy Calculation and/or Community Benefits Charge - Variable".

8. City Council amend Chapter 442, Administration of Fees and Charges by adding the following new Section:

    A. All appraisals of land value shall be carried out under the direction of the Executive Director, Facilities and Real Estate and shall be determined in accordance with generally accepted appraisal principles.
    B. The cost of any appraisal undertaken by the City shall be paid for by the owner.
    C. The cost of any appraisal required pursuant to subsection 37(38) of the *Planning Act* shall be paid for by the owner.
    D. The value of the land shall be determined as of the day before the day of issuance of the first building permit in respect of the development.

FINANCIAL IMPACT

GFTs allow municipalities to require development or redevelopment to pay for infrastructure and services required as a result of growth in population and employment to support complete communities. The principle that was articulated by the Province is that growth should pay for growth. This ensures that growth costs are not born by existing taxpayers in the form of higher property taxes or user rates and that service levels are not adversely affected as the City grows.

Growth does not pay for growth

Historically, GFTs have not fully covered the cost of growth, nor are they expected to in the future. This is due to caps and other legislative restrictions on some GFT tools such as Development Charges.

In comparing the CBC to the previous Section 37 Density Bonusing, an analysis of the City's historic development applications demonstrates that had the four percent cap on land value been in effect over the past five years, the benefits secured as a result of Section 37 of the *Planning Act* would have been reduced by $50 to $70 million, or 40% annually. As a result, the City anticipates a sustained decrease in revenues due to the new CBC approach, which will have a significant impact on the capital projects funded by this tool. Overall, the analysis suggests that the City will not maintain the same revenue potential that would have been available under Section 37 Density Bonusing. This impact is due directly to the four percent cap on land value.

CBC Strategy

The CBC Strategy anticipates the City will require $2.3 billion to fund CBC eligible growth-related costs over the next 10 years as a result of eligible development, not otherwise recovered by development charges or the alternative parkland dedication rate. Based on the City's growth forecast, and with the provincially restricted CBC rate cap of four percent of land value, the City anticipates to recover $700 million over the 10 year period, before exemptions and transition, leaving a remaining unfunded gap of almost $1.6 billion in growth-related costs. This represents a cost recovery rate of 30%, with remaining costs in need of an alternative source of funding. A land value cap of at least 13% would be needed to fully recover the growth-related costs identified in the CBC Strategy. Further, additional growth-related costs will continue to be identified through growth studies and infrastructure needs assessments which may further increase the financial pressures associated with growth.

Financial Incentives

Proposed incentives for affordable housing programs which include exemption of Housing Now developments from the CBC bylaw and the exemption for Affordable Housing units secured through a municipal housing facility agreement, are estimated to reduce CBC revenues by approximately $33 million annually. Note that certain affordable developments would already be exempt under legislation due to statutory exemptions for non-profit housing developers. Transition provisions for complete applications for smaller residential developments (less than 10,000 square metres) in the City's development pipeline are estimated to amount to $3 million annually until projects are completed. As with all the estimates in this report, the actual impact will depend on the level of development activity and land valuations. A review of existing and potential new exemptions related to all growth-related funding tools will be undertaken and reported to Council in 2023 as part of the Long Term Fiscal Plan review.

Implementation

This report recommends an updated appraisal fee to address the requirements of the new CBC bylaw and legislation. Staff will also finalize any implementation considerations including allocation guidelines and resourcing requirements and report back to City Council as part of the 2023 budget process and further reporting on CBC implementation.

DECISION HISTORY

At its meeting on June 1, 2021, Executive Committee considered Item EX24.4 Bill 197 and Growth-Related Funding Tools Update. The report provided an update on the City's approach to the legislative requirements outlined in Bill 197 for municipal growth funding tools.

At its meeting on November 26, 2019, City Council considered Item MM12.29 Bill 138 - Preliminary City Comments, which summarized amendments to Bill 108 proposed through the *Plan to Build Ontario Together Act* (Bill 138).

At its meeting on July 16, 2019, City Council considered Item CC9.7 More Homes, More Choice Act - Budgetary Considerations, which identified budgetary considerations related to the implementation of Bill 108 and the measures staff were taking to work with the Province to ensure appropriate regulations are adopted.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC9.7

At its meeting on May 14, 2019, City Council considered Item CC7.3 Proposed Bill 108 (More Homes, More Choice Act, 2019) and the Housing Supply Action Plan - Preliminary City Comments, which highlighted the proposed changes to the *Planning Act, Local Planning Appeal Tribunal Act, Ontario Heritage Act* and the *Development Charges Act*.

EQUITY IMPACT

The City strives to apply an equity lens to its activities to identify and remove barriers and to support best practices in planning, budgeting, implementation and evaluation of its programs and services. Growth funding tools contribute towards capital projects that advance the City's desired equity outcomes including affordable housing, increased mobility, and recreational facilities, and aim to create complete communities where all residents have an equal opportunity to live, work and play.

CLIMATE IMPACT

The City's capital budgeting process involves a climate focus as part of the decision making framework. CBCs are used to fund a range of capital projects, including those that positively contribute towards the City's Resilience Strategy and the TransformTO Net Zero Strategy which aims to reduce community-wide greenhouse gas emissions to net zero by 2040. The Official Plan envisions Toronto as a city with a healthy natural environment including clean air, soil, energy and water; and infrastructure and socio-economic systems that are resilient to disruptions and climate change.

COMMENTS

The City's Approach to Growth-Related Funding Tools

The Community Benefits Charge is one of three growth-related funding tools being presented to City Council for consideration, in compliance with Provincial requirements and prescribed timelines. GFTs are charges collected by municipalities on eligible development that are intended to pay for capital costs to serve the growing population, including municipal services and infrastructure.

While there are three separate tools, the Community Benefits Charge, Development Charges, and the Alternative Parkland Dedication Rate have been reviewed together to ensure a holistic approach to funding growth and address provincial requirements. The City of Toronto's GFT project is guided by the following three principles:

- **Complete communities:** As the City grows, it is important to plan for a mix of housing types, employment uses, a diversity of land uses, community amenities, and street connectivity in order to promote the development of complete communities where people will continue to want to live, work and play.

- **Growth pays for growth**: New development should pay for the growth-related infrastructure, services and facilities needed to support new population and employment. Changes to provincial legislation should maintain municipal revenues – that is, the City should not be worse off as a result of the new legislative requirements.

- **Practical and predictable**: Growth funding tools will be transparent, predictable and practical to administer and implement.

The GFT project is a significant interdivisional project that required the collaborative effort of staff across City Divisions, as well as the City Agencies, Boards and Corporations. In addition, staff undertook a comprehensive engagement with the public, development industry, community organizations and school boards. A summary of the GFT consultation, engagement activities and findings is included in Attachment 6.

Understanding Growth in Toronto

The City's Official Plan outlines a framework for how the City should support and manage growth. The goal is to create complete communities that meet the basic needs of all residents in a community regardless of income or culture. This inclusive community design includes, but is not limited to, a mix of housing types, diverse land uses, employment opportunities, community amenities and mobility options.

The City is also required to use provincial forecasts for growth management and long-term planning. Within these forecasts, the City of Toronto is expected to reach a minimum population of 3.65 million in 2051, with 1.98 million jobs. This would represent an additional 615,000 residents and 283,000 jobs over 2021.

GFTs allow the City to invest in and provide infrastructure and services needed to serve growing communities. Together with the Development Charges Background Study and the Parks Strategy, the CBC Strategy identifies investments the City will require in order to accommodate growth and community building, and informs the recoveries needed to offset growth-related costs.

Key Legislative Changes to Section 37 of the *Planning Act*

Through Bills 108 and 197, the Province replaced the former Section 37 Density Bonusing with a new Community Benefits Charge. To ensure continuity of the City's ability to receive funds under Section 37, the City must enact a CBC bylaw, supported by a CBC strategy, prior to the expiration of the current Density Bonusing authority on September 18, 2022.

CBCs can be collected on developments and redevelopments that are at least five storeys in height and contain at least ten residential units, with the exception of certain exempted development. CBCs can only be used to fund growth-related capital facilities and matters. CBCs can work in conjunction with the City's development charges and alternative parkland dedication rate, if the same share of the costs are not already recovered by these other two tools. CBCs cannot be used to fund operating costs, ongoing capital maintenance costs or capital replacement or services and facilities that have not been identified in the CBC strategy.

Unlike the former Density Bonusing approach which negotiated individual benefits for each development based on the increased height or density that was being requested, the CBC will apply a standard rate to all development unless excluded or exempt. This standard rate will be applied as a percentage of the site's land value, which will improve predictability for developers. The Province has prescribed the CBC rate to a maximum of four percent of the appraised land value.

While previous Section 37 Density Bonusing cash-in-lieu contributions were collected for specific purposes and delineated in individual Section 37 agreements, the new CBC revenues will be contributed to one special CBC account. Each year, the City must allocate or spend at least 60% of the funds held in the special account. The requirement to allocate or spend at least 60% of funds also applies to existing and formerly secured Section 37 benefits, which will continue to be spent according to their original purposes, pursuant to executed agreements.

In-kind contributions provided in lieu of cash payment may be permitted under the new legislation. However, the challenge is that the City can no longer register Section 37 agreements on title to land to ensure future delivery of obligations under the agreement. Council has repeatedly requested that the Province amend the *Planning Act* to enable agreements to be registered on title. Staff are examining alternative approaches to secure the provision of in-kind contributions and on-going obligations.

Once approved, the CBC bylaw is in effect and a CBC can be collected. However, the CBC bylaw can be appealed to the Ontario Land Tribunal (OLT) within a 40-day period after the bylaw has been passed. In the case of an appeal that results in a reduced CBC rate than adopted by City Council, the City would need to refund applicants appropriately for CBC payments made during the course of the appeal process. The amount of CBC owed for individual development applications may be also be disputed on a case-by-case basis as outlined in the appraisals section later in the report.

A comparison of former Section 37 Density Bonusing and the new Community Benefits Charge is shown in Attachment 4.

Bill 109, the *More Homes for Everyone Act*, 2022 received Royal Assent on April 14, 2022. Bill 109 introduces a requirement for a five year review of a CBC bylaw adopted by a municipality.

Community Benefit Charge Strategy

Prior to enacting a CBC bylaw, the City must complete a Community Benefits Charge Strategy which identifies the facilities, services and matters that will be funded by CBCs. The CBC Strategy was released in April 2022 for consultation. A number of adjustments and updates have been made as a result of consultation between City staff, the public, and development industry stakeholders that are reflected in the CBC Strategy Addendum. The City's CBC Strategy dated April 2022 and the CBC Strategy Addendum dated June 2022, together are the CBC Strategy, and are provided in Attachments 2 and 3.

The CBC Strategy identifies the capital needs arising from eligible development, and demonstrates the need for a CBC rate up to the legislative four percent cap on land value. The CBC Strategy also provides a methodology and approach for addressing key legislative and regulatory requirements which must be included, such as:

- Anticipated growth and development (amount, type, location) to which the CBC will be imposed;
- The increased need for facilities, services and matters as a result of growth;
- The extent to which an increase in facilities or services may benefit existing development; and
- Estimated capital costs necessary.

The CBC Strategy reflects a point in time analysis and includes a capital program grouped into eight service categories, as demonstrated by Figure 1 below and Attachment 2. The Strategy is not required to prioritize or allocate funds to a category or to specific capital projects, which provides the City with the flexibility to fund a wide range of growth-related capital costs. Further work on allocation of CBCs will be completed as part of the implementation and is discussed further in this report.

Figure 1: Community Benefits Charge Service Categories

Parks and Recreation

- Includes growth-related parks and recreation project costs not funded through DCs or s.42 (e.g. project costs beyond DC funding envelope; parkland dedication beyond s.42; provisions for additional projects to support mid-high density growth)

Community Facilities

- Includes projects such as public agency and community space (e.g. community hubs, cultural centres, human agency spaces), libraries, and child care facilities

Affordable Housing

- Includes capital costs associated with providing a mix of affordable housing to the growing population in the city

Public Realm

- Includes projects such as streetscaping and other urban design enhancements, public art, and heritage conservation

Active and Sustainable Transportation

- Includes road, transit, bike share expansions, and electric vehicle charging infrastructure

Protective Services

- Includes paramedic services project costs not funded through DCs, and emergency management projects. May include fire and police projects not funded through DCs

Waste Management

- Includes growth-related solid waste management project costs not funded through DCs

Civic Administration

- Includes the cost of developing and implementing the CBC Strategy

The capital program of the CBC Strategy identifies $2.3 billion in anticipated CBC eligible capital costs attributed to services, facilities and matters as a result of eligible development over a ten year, and supports staff's recommendation to collect a four percent CBC.

Based on growth forecasts and an analysis of per unit land values, the recommended four percent CBC is estimated to have a total revenue potential of $700 million, before any exemption and transition, over the ten year period, resulting in a remaining gap of $1.6 billion required to serve the costs of growth.

Community Benefits Charge Bylaw & Rate Structure

The *Planning Act* requires that the CBC not exceed an amount equal to the prescribed percentage of the value of the land as of the valuation date. The Province has capped the CBC at four percent of land value. Staff recommend the application of a uniform rate of four percent of land value as of the day prior to the issuance of the first building permit for a development or phase of development, as applicable, and as outlined in the recommended CBC bylaw in Attachment 1.This city-wide rate will account for variability in land values across the City. Other municipalities, such as Hamilton, Ottawa, Guelph, Newmarket, Vaughan, Markham, Halton Hills, are recommending a four percent on land value community benefit charge, as well. Most of those municipalities have a smaller CBC capital program than Toronto and an anticipated higher percentage of cost recovery through projected CBC revenues.

Policy Considerations

In developing the policy recommendations outlined below, several factors were considered including:

- Infrastructure needs to service the growth in residents and employment
- Results of the preliminary impact analysis that indicated that although GFTs are not a primary driver of housing prices, current economic conditions with increasing inflation and construction costs (which the City also faces in its infrastructure projects) warrants a measured implementation of the new rates to mitigate the impact of rate changes on new development
- Feedback from public, community and industry stakeholders

The policy recommendation in the three GFT reports on DC, CBC and alternative parkland dedication balance the above factors and provide a measured approach to GFT increases. The combined package of policy responses directly supports development projects through a combination of multi-year phase-in and exemptions, while balancing the long-term infrastructure needs of residents and businesses resulting from the expected growth.

The following section summarizes key policy considerations related to the recommended CBC bylaw and is organized as follows:

1. Community Benefits Charge Exemptions
2. Transition - Development under 10,000 square metres

1. Community Benefits Charge Exemptions

Statutory Exemptions

As the CBC applies only to developments with a minimum of five storeys and 10 or more residential units. Lower density developments and non-residential development are not subject to this charge. Additionally, the new legislation exempts long-term care homes and hospices; retirement homes; universities, colleges and Indigenous institutes; Royal Canadian Legion buildings; and non-profit housing.

Recommended Exemption – Housing Now Developments

The City's Housing Now Initiative is an approach to city building whereby City-owned lands are leveraged to build affordable housing within mixed-use, mixed-income, transit-oriented communities. These City-owned properties will deliver 10,000 affordable rental homes over 10 years, representing a minimum 33% of a development's units. Larger sites will also include one-third market rental housing and a maximum of one-third of the total residential units for ownership housing. Investment in these properties generally also contribute to the broader community by delivering new amenities such as child care facilities and non-profit agency space, and revitalized public spaces.

The City secures the units' affordability for 99 years through a lease and contribution agreement and the other community benefits through a project agreement with its selected development partner. As such, development on each Housing Now site will deliver benefits on City-owned properties aligned with the facilities and services identified in the CBC Strategy. Taken together, the benefits achieved through the Housing Now Initiative will always be of greater value than the CBCs that can be collected given the current four percent maximum cap. Accordingly, the recommended CBC bylaw exempts all development in the Housing Now Initiative from a CBC payment.

Recommended Exemption – Affordable Housing

The City's HousingTO Action Plan, Canada's first human rights-based housing plan, was adopted by City Council in December 2019. A key action is the goal to create 40,000 new affordable rental homes by 2030. Of this amount, approximately 30,000 affordable housing units are to be delivered through non-Housing Now initiatives. These are in partnership with other orders of government, the non-for-profit community, and the private housing development sector.

City Council has significant investment in affordable housing with over $6 billion in City contributions approved through the City's 2022 capital budget and plan in the form of direct capital investment and incentives in the form of land and foregone revenues. The City's Open Door program incentives include exemptions for affordable housing units from DCs, parkland dedication, property taxes, as well as other planning fees and permit charges. Affordable Housing units benefiting from Open Door program incentives are secured through a municipal housing facility agreement. The recommended CBC bylaw exempts all affordable housing units from CBCs when the units are secured through a municipal housing facility agreement.

2. Transition - Development under 10,000 square metres

In support of mid-rise and other forms of smaller residential infill development, that may exceed the provincial exemption of at least 5 storeys and 10 units, the recommended CBC bylaw transition exempts proposals in the City's development pipeline that are less than 10,000 square metres and have a complete Zoning By-law or Site Plan Control application prior to the passing of CBC bylaw. As previously noted, this aligns with Official Plan Section 37 policies with excludes development under 10,000 square metres from Density Bonusing, and moderates the impact of charges on lower density housing projects. The length of the transition period will depend on when these projects proceed to the building permit stage.

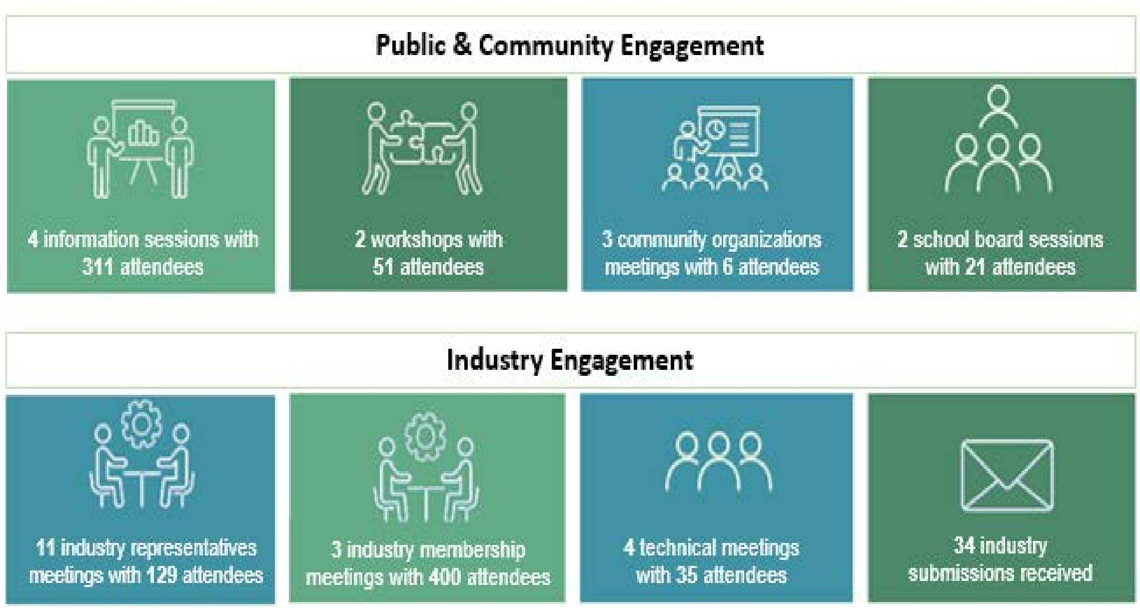
Comprehensive Review of Exemptions and Financial Incentives to be Undertaken

As part of the Long Term Fiscal Plan review requested by Council to be completed in 2023, a review of the City's discretionary exemptions and financial incentives will be undertaken and brought forward for Council consideration. This will include a comprehensive framework which considers all growth-related funding tools and other policy reviews underway, such as the Imagination, Manufacturing, Innovation and Technology Program. The implications of providing exemptions will need to be further analyzed to examine the financial impacts to the City, and to ensure that incentives are in support of the City's desired outcomes and goals.

As part of this comprehensive study, staff will consider exemptions in support of the City's key strategic priorities, such as, but not limited to, encouraging the construction of mid-rise buildings, advancing climate-related goals or maintaining and creating affordable housing.

Stakeholder Consultation

In coordination with the broader GFT review, a variety of consultation events for the public, stakeholder groups and development industry have been held throughout the course of the project, starting in 2021. Engagement efforts focused on building awareness of the funding tools, sharing key information to understand the study process and outcomes, and gathering feedback on priorities and preferences for updating these tools. Consultation events are summarized below.



The following themes emerged from the consultations:

- Housing affordability – how rate changes affect housing affordability
- The impact on new development – potential negative impacts on new development
- Who should pay for growth – the extent growth should pay for growth or whether growth costs should be shared by all homeowners
- Transition – how rates changes will be transitioned to allow development to adjust to the new level of charges
- Interest in CBCs – including what would be funded, how stakeholders could become involved, and the in-kind contribution process

Feedback and comments received from the public, stakeholder groups and industry have helped to shape the recommended rate and policy framework, including the recommended exemptions for affordable housing programs, the transition for developments less than 10,000 square meters and implementation considerations discussed in this report. A summary of the key themes heard from the stakeholders can be found in Attachment 6.

Implementation of Community Benefits Charges

Allocation of Community Benefits Charge Revenues

Provincial legislation requires CBC revenues to be deposited into a special account. Each year, at least 60% of funds in the account at the beginning of that year must be spent or allocated to specific projects.

As part of implementation next steps, staff are preparing a CBC allocation methodology, which will be part of the annual budget process that takes into consideration the required infrastructure identified through the development review process and area-based plans, all of which would address the requirements of the legislation.

The recommended methodology will be guided by the following principles and will be brought forward with the updated Long Term Fiscal Plan in early 2023.

- **Growth pays for growth –** Consistent with the overall GFT project principles, areas experiencing growth will require growth-related infrastructure, services and facilities to support the increase in population. As such, the allocation methodology will identify how CBC funds are assigned to areas experiencing, or projected to experience, growth.

  In practice, this will be informed by needs identified in the City's planning studies and secondary growth plans, and in alignment with the City's Official Plan. Staff will monitor the geographic relationship of CBC funds received and allocated. It is expected that over the capital planning period, investments will have a similar geographic distribution as funds received.

- **Development of complete communities –**Allocation of funds will support a wide range of growth-related community investments, consistent with the Strategy's service categories outlined above, to ensure the development of complete communities. For example, eligible CBC expenditures could include investments in parks, libraries, housing, and the public realm needed in high growth areas. As funds are not prescribed to specific investments at pre-identified locations, the new CBC legislation allows the City to respond to growth-related capital needs as funds are received.

  Recommended allocation of funds to specific capital budgets for divisions and agencies will be informed and guided by historic trends and patterns experienced and the Official Plan. For example, a significant portion of previous Section 37 related expenditures pertained to affordable housing, park improvements, mobility and public realm, and community facilities.

- **Allocation through the annual budget process or development approval –** To ensure compliance with the requirement to spend or allocate 60% of the CBC special account each year, allocation to specific capital projects and initiatives will be reviewed and recommended through the annual budget process. Where in-kind contributions are identified during review of a development proposal, it is anticipated that reporting through the development approval process will be used.

  Staff will recommend allocation to capital projects and initiatives based on the above principles, and in consideration of standard budgeting methodology including: alignment with Council-approved priorities including housing and climate action; the Official Plan and implementing strategies; ensuring readiness to proceed and capacity to deliver; equity considerations; opportunities for stakeholder input; and addressing capital needs constraints. Staff will optimize the use of CBC funds in consideration of other funding available. Both the City's annual budget process and development approvals under the *Planning Act* provide opportunity for engagement with City divisions and agencies, Councillors and communities, and transparency for City Council and the general public.

- **Previously secured and received Section 37 funds –** Will be allocated consistent with the purposes as secured through the site-specific zoning by-law and Section 37 agreement. Staff will continue to consult with City divisions and agencies and City Councillors to ensure funds are appropriately allocated within the City's 10-Year Capital Plan and spent per the original guidelines.

During consideration of Item EX30.1, "2022 Property Tax Rates and Related Matters", City Council requested the City Manager and the Chief Financial Officer and Treasurer to provide an updated Long Term Fiscal Plan during the 2023 budget that includes recommendations to address the backlog of state of good repair, unfunded capital projects and other council plans and strategies. As part of this analysis and work, staff will further review the allocation of CBC funds in consideration of identified and anticipated future capital needs.

Accepting In-Kind Contributions

Voluntary in-kind contributions may be accepted, however, there are challenges that may limit the feasibility of securing in-kind benefits. The *Planning Act* no longer provides the Section 37 authority to register agreements on title to land, which is necessary to secure the facilities, services and matters, and ensure future owners are automatically bound by the provisions in the agreement. Staff are considering other potential options for securing future CBC in-kind benefits.

Another challenge that may limit the scope of appropriate in-kind benefits is the four percent of land value cap. Under the *Planning Act*, the City must advise the owner of the value that will be attributed to the in-kind contribution.

Despite the challenges and limits of accepting in-kind contributions, once the CBC bylaw is in effect, consideration will be given to how and what in-kind contributions might be feasible and of benefit to the City and brought forward for City Council endorsement.

Currently, staff recommend the following general criteria when considering the potential for accepting in-kind contributions:

- Applicants shall be required to enter into an agreement with the City with provisions satisfactory to the City Solicitor to secure the delivery of and any on-going obligations related to in-kind contributions;
- Contributions must be related to a service(s) included in the CBC strategy;
- Contributions will align with the City's growth objectives and priorities;
- The facility or service should benefit the community in the vicinity of the development; and
- In-kind contributions should be identified in the final planning approval report

Appraisal Process of the Land Value

The CBC will be levied at four percent of the appraised land value. Provincial legislation states the land value used in the calculation of the CBC should reflect the value on the day prior to issuance of the first building permit. Land value will be established through an appraisal process conducted by the City. This report recommends amendment to the definition of the Parks appraisal fee to include CBC appraisal, when feasible. The land owner will be provided with an invoice noting the CBC amount owed.

Should the land owner be of the view that the amount charged exceeds the amount permitted by the City's CBC rate, they can pay the charge under protest and provide the City with their own appraisal as of the valuation date. If the appraisal value differs by less than five percent of the City's appraised value, the City is automatically required to refund the difference to the owner. If the appraisal value differs by more than five percent of the City's appraised value, a third party appraiser must be engaged to determine a final valuation.

Based on an estimated 150 development applications subject to CBC fees annually, and the estimated current cost for appraisal of $15,000 to $20,000 per property, it is anticipated that completion of land value appraisals will cost the City an estimated annual amount of about $2.6 million. To recover the cost of land value appraisals, staff recommend the appraisal fees to be adjusted through the 2023 annual budget process.

Additional Resource Requirements

Given new administrative processes associated with the CBC including the appraisal process, system changes and collections, staff anticipate requiring additional resources to ensure successful implementation. Currently, staff have identified 4 new full-time positions to support the increased workload associated with appraisals, invoicing and revenue collection at an anticipated annual cost of $0.4 million. Additional resources are expected to be identified after the CBC is implemented. For the current year, staffing will be managed through internal delegated authorities. For future years, these staffing requirements, along with any other additional implementation resources required, will be identified and submitted for consideration as part of the 2023 budget process.

Conclusion

Legislative changes introduced through Bills 108 and 197 replaced Section 37 Density Bonusing with a new CBC. A CBC Strategy must be undertaken and a bylaw must be adopted in order for the City to collect CBCs from eligible development. The CBC is being brought forward to City Council with the other two GFTs: DCs and Alternative Parkland Dedication Rate. Together, these GFTS allow the City to invest in and provide infrastructure and services needed to serve growing communities.

While GFTs are based on the principle that growth pays for growth, the provincial changes to Section 37 is estimated to result in a funding shortfall of approximately $50 to $70M annually before exemptions impact, or about a 40% reduction in revenues, compared to former Section 37 Density Bonusing. As a result, financial incentives including exemptions must be considered judiciously. Recommended bylaw policies align with Council's housing initiatives, including Housing Now, affordable housing and complete applications for smaller residential development, such as mid-rise proposals, under 10,000 square metres in the City's development pipeline. Staff will continue to engage City Divisions and report back with remaining analysis and recommendations in 2023, including implementation policies, staffing needs and the financial incentives work.

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ATTACHMENTS

Attachment 1: Community Benefits Charge Bylaw
Attachment 2: Community Benefits Charge Strategy
Attachment 3: Community Benefits Charge Strategy Addendum
Attachment 4: Comparison of Former Section 37 and New Community Benefits Charge
Attachment 5: CBC Reserve Fund Criteria Sheet
Attachment 6: Stakeholder Engagement Summary

Attachment 1: Community Benefits Charge Bylaw

Provided under separate cover

Attachment 2: Community Benefits Charge Strategy

Provided under separate cover

Attachment 3: Community Benefits Charge Strategy Addendum

Provided under separate cover

Attachment 4: Comparison of Former Section 37 and New Community Benefits Charge

	Former Section 37 Density Bonusing	New Community Benefits Charge
Trigger	Request for height or density increase beyond permitted zoning	Development is at least five storeys and 10+ residential units
Charge	Negotiation based on value of the increase in height or density	Provincially restricted to four percent of appraised land value
By-law	Multiple site-specific zoning by-laws and/or Section 37 agreements	One city-wide CBC by-law
Spend Rate	Timing and allocation based on site-specific agreement	60% of funds in special account must be spent or allocated annually
In-Kind Contributions	Allowed, with agreements able to be registered on title	Allowed, value will be deducted from the total CBC amount owed
Statutory Exemptions	No statutory exemptions	Statutory exemptions include retirement and long-term care homes, universities, colleges, Indigenous instituted, Royal Canadian Legion buildings, non-profit housing
Appealable	Site-specific zoning bylaws can be appealed to OLT, including Section 37 provisions	CBC bylaw can be appealed to the OLT; 40-day appeal period after by-law is passed. Amount of CBC owed can be disputed.

Attachment 5: CBC Reserve Fund Criteria Sheet

Community Benefits Charges Reserve Fund Group

Location within the Consolidated Reserves/ Reserve Funds Schedule

Account within Schedule 12 – City Planning Obligatory Reserve Funds.

Statement of Purpose

This reserve fund group will be used to hold funds for Community Benefits Charges.

Service Area or Beneficiary Program

The Office of the Chief Financial Officer and Treasurer.

Initial Contribution

Not applicable.

Contribution Policy

As established for each individual account.

Withdrawal Policy

As established for each individual account.

Review Cycle

The fund will be reviewed every 5 years.

Community Benefits Charges Reserve Fund

Location within the Consolidated Reserves/ Reserve Funds Schedule

Account within Schedule 12 – City Planning Obligatory Reserve Funds.

Statement of Purpose

This account will be used to hold funds from Community Benefits Charges.

Service Area or Beneficiary Program

The Office of the Chief Financial Officer and Treasurer.

Initial Contribution

No initial contribution.

Contribution Policy

As established for each individual account.

Withdrawal Policy

The funds are withdrawn in accordance with the Capital Budget process.

Review Cycle

The fund will be reviewed every 5 years.

Attachment 6: Stakeholder Engagement Summary

As part of updating the growth funding tools, a comprehensive stakeholder engagement was conducted to understand what is important to stakeholders when it comes to growth funding tools and paying for growth. The What We Heard Engagement Report describes the approach that was taken by the Growth Funding Tools (GFT) project team to consult with approximately 1000 industry and public stakeholders throughout the duration of the project from July 2021 to Spring 2022 and documents the feedback that was received. While the engagement process for Development Charges (DCs) and the new Community Benefits Charge (CBC) is nearing completion, further consultation will continue for the Alternative Parkland Dedication Rate in the context of the recent enactment of Bill 109 and its constituent changes to the *Planning Act.*

Purpose of Engagement

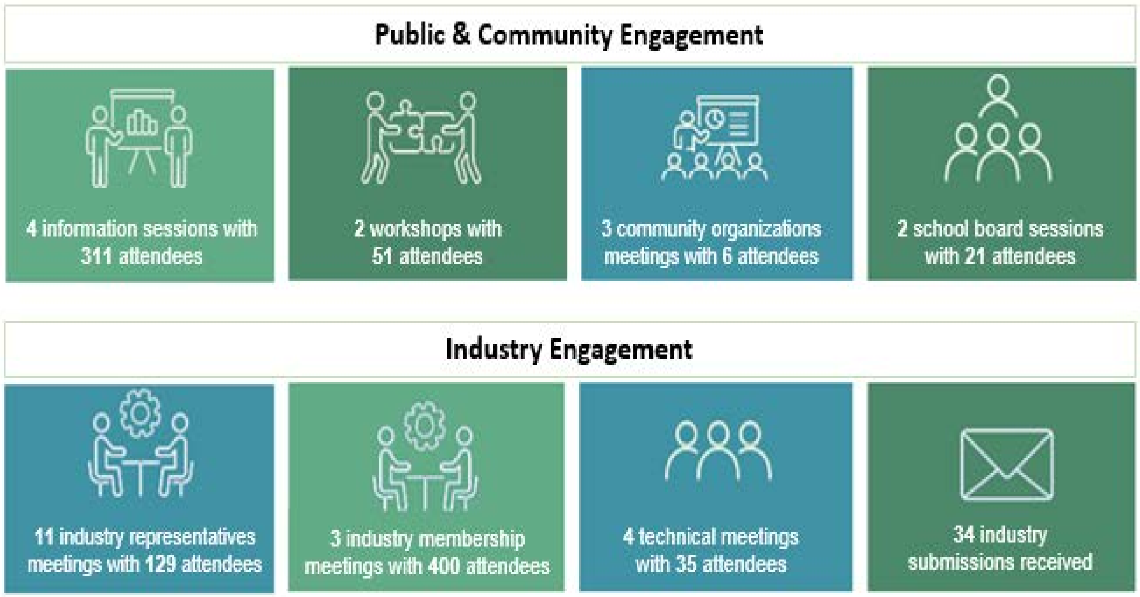
Recognizing that changes to the City's growth funding tools will impact the future of Toronto's residents and businesses, the purpose of the engagement was to:

1. Build awareness and share information about the growth funding tools with stakeholders who had varying levels of knowledge on the tools. Efforts were made by the project team to simplify the complex technical and legislative context of these tools by delivering information using plain language and making the content relatable by connecting the tools to stakeholders pressing interests and concerns.
2. Provide meaningful opportunities for stakeholders to inform and provide feedback on changes to the growth funding tools.

Stakeholder Participation

The GFT project team reached out to a broad group of stakeholders, the general public, community groups, school boards, academic and research groups, social service organizations and representatives from major industry groups in the development, planning, and real estate industries. Specific attention was given to informing and inviting organizations that serve equity-deserving communities to participate in the engagement process through the use of targeted media and the project team also provided equity deserving organizations with the option to have separate meetings with the team. The project team will continue to engage with the stakeholders as consultations for the alternative parkland dedication rates continue.

A synopsis of the GFT project's engagement with stakeholders through online consultations is provided below.



As shown above, the City's project team in partnership with communications firm, Argyle, consulted with approximately 1000 public and industry stakeholders through various engagement tactics such as information sessions, workshops, and meetings, as well as a project website. Throughout the project, stakeholders could also get in touch with the project team through a dedicated GFT email address (gft@toronto.ca) and approximately 50 emails from stakeholders were received.

Feedback from industry and public stakeholders was instrumental in helping the GFT project team understand what is important to stakeholders when it comes to funding growth. The stakeholder feedback informed the most recent updates to the bylaws and policies that are being recommended to Committee and Council in July 2022.

Stakeholder Feedback Themes

The following key themes emerged at the industry and public consultations:

- **The impact of rate increases on new development:** Stakeholders from the development industry revealed concerns about the potential impact that updates to the GFTs could have on current and future development projects. In addition, rental housing developers were concerned about the viability of building rental housing with the new rates. Industry participants also noted other existing financial pressures such as rising construction costs and high land values.

  In earlier engagement sessions, public stakeholders expressed the sentiment that new developments are creating a strain on existing services, particularly roads and transit, and that while residents are not against growth, it needs to be accompanied by appropriate investment in their communities to support new density. As such, the request was made for the City to explore additional revenue tools as GFTs alone will neither be sufficient to support the City's growth nor can they be used to fund operating and maintenance costs.

- **Who should bear the cost of growth:** Feedback varied on this topic. Some public stakeholders stated that "growth should pay for growth" and costs of growth should not be passed on to existing residents through property taxes while others shared the view that costs of growth should be shared by all residents, as everyone benefits from growth.

  Developers also wanted to know whether infrastructure and service costs in high growth areas will be area-specific or whether all developments would be subject to the same fees. Questions were raised about the rate structure of GFTs and how it reflects Toronto's unique development context, whether GFTs could be used to incentivize development in particular areas of the city and how other financial tools such as property taxes could be leveraged to fund capital projects for the City. Discussions with respect to how rates are calculated, how the three tools work together and how they will be implemented also took place.

- **Significant interest in the new Community Benefits Charge (CBCs):** Public stakeholders asked what services can be funded, how they could be more involved with CBC funding allocations and how future funding including in-kind contributions will be allocated towards eligible CBC projects.

  Representatives of school boards indicated schools should be considered under the list of eligible services for CBCs as growth affects school capacity and school investment is needed. In addition, school boards requested that ongoing partnership and collaboration work continue with the City to support mutual interest in supporting residents and building complete communities.

- **Housing affordability:** Public stakeholders asked how GFT rate increases could affect the affordability of new housing and whether the affordability of existing housing units would be preserved.

- **Transition period for GFTs:** Industry representatives were very interested in the timeline and transition period for the GFT rate increases. More specifically, representatives wanted to know when the new rates will come into effect and about the City's transition period to protect projects in the City's development pipeline and to allow for industry to adapt to the new rates. Industry raised questions about how these changes will impact the viability of development applications, including those that are already in progress. Representatives flagged the cumulative impact of all policy tools on projects and encouraged maintaining existing discretionary exemptions.

- **General feedback on growth:** Public stakeholders generally did not oppose growth, but would prefer it to be accompanied by appropriate investments within communities. In addition, some residents in high growth areas felt disproportionately affected by growth and wanted to understand how GFTs could be focused to support areas when development is occurring, making it important to ensure that "growth pays for growth". Public stakeholders also asked whether DCs and CBCs will be prioritized to fund critical projects and expressed concerns about residential and commercial gentrification pricing people and businesses out of neighbourhoods. Overall, participants generally expressed the need to ensure that Toronto remains a place where people can afford to live and work.

- **Technical:** Development industry stakeholders provided various technical comments and questions on the DC, CBC and Parkland Studies and Strategies that were being prepared. A total of eighteen industry and technical meetings were conducted with approximately 550 industry stakeholders for the duration of the GFT project. These included detailed technical meetings on the DC study calculations, as well as general high level meetings about the project approach and key considerations. Industry was informed about the growth funding tools throughout the process and their input was considered and incorporated where appropriate in the final documents supporting the respective bylaws.
- **Changes to Parkland Dedication:** Industry representatives also asked questions about the parkland dedication policy framework and recent legislative changes. Matters of industry interest regarding parkland included the use of existing Section 42 cash-in-lieu reserves, how the City determines parkland need, and how Bill 109's recent legislative changes to parkland dedication legislation on transit-oriented community lands would be implemented by the City. Industry representatives also requested the City explore additional exemptions, transition provisions, and other matters to mitigate the financial impact of any parkland dedication changes proposed.

The City's Response to Stakeholder Feedback

The City acknowledges the valuable feedback received from stakeholders during the industry and public consultations and used this feedback to inform the recommended updates to the bylaws, and policies. Specifically, stakeholder feedback informed the provision of adequate transition periods to protect the development projects that are in the pipeline and to provide adequate time for rate changes to be incorporated into future projects while adjusting to prevailing economic conditions. These policy changes are provided in the GFT reports being presented to the Executive Committee in July 2022.

The project team made efforts to respond to all clarifications and technical questions from stakeholders. Additionally, the project team has collaborated with relevant City Divisions to flag stakeholder feedback that was not directly relevant to the GFT project, such as matters relating to the City's budgeting and financial planning processes.

A complete What We Heard Report with more details on the stakeholder feedback can be found on the GFT website.

While a significant portion of industry and public engagements for the growth funding tools is complete, a statutory public meeting at the Executive Committee on July 12, 2022 is another opportunity for stakeholders to provide input. At this meeting, reports, bylaws and studies for all three tools – development charges, community benefits charge and alternative parkland dedication – will be presented.