

Community Benefits Charge: In-Kind Guidelines

Date: January 7, 2025

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

As Toronto grows, so does the need for new and expanded public facilities and public realm improvements that support a high quality of life. The Community Benefits Charge (CBC) is an important tool, in combination with other funding sources, to help the City respond to this need and create complete communities, where things like parks, libraries, child care, community and cultural spaces, affordable housing options, and a welcoming public realm are available and easily accessible.

In most cases, the CBC is provided as a payment at the time of the first building permit. However, in some instances there may be benefit to the City in accepting in-kind contributions that support the City's strategic and policy goals and meet identified community needs. The purpose of the CBC In-Kind Guidelines ("the Guidelines") is to provide a transparent, policy supported and evidence-based approach for considering in-kind CBC contributions. The Guidelines (Attachment 1) are also intended to support consistency in how and when in-kind contributions are accepted and ensure alignment with the City's approach to allocating CBC funds that have been collected.

The Guidelines are based on a set of five principles which provide high-level guidance for assessing a proposed in-kind contribution. The principles are: Complete Communities, Growth Pays for Growth, Equitable Distribution, Prioritization of Funding Sources, and Alignment with Planning Tools.

The Guidelines include a recommended process for considering and accepting in-kind CBC contributions, to provide a clear, predictable, transparent path for everyone involved. This process includes guidance for considering when to accept an in-kind contribution while balancing the various community priorities within an area to make best use of the CBC, as well as a general description of the steps involved in securing an in-kind CBC contribution. The Guidelines also include Capital Facility Requirements, which describe minimum requirements, sources of information, and other key considerations for each of the most common types of in-kind contributions in more detail.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning recommends that:

1. City Council adopt the Community Benefits Charge In-Kind Contribution Guidelines included as Attachment 1 to the report (January 7, 2025) from the Chief Planner and Executive Director, City Planning.
2. City Council direct the Chief Planner and Executive Director, City Planning, and Executive Director, Development Review to apply the Community Benefits Charge In-Kind Contribution Guidelines in the evaluation of in-kind contributions for eligible developments, in accordance with the City's Community Benefits Charge Bylaw (1139-2022).

FINANCIAL IMPACT

There are no immediate financial implications arising from the approval of the recommendations in this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information as presented in the Financial Impact Section.

RECONCILIATION AND EQUITY IMPACT STATEMENT

Growth funding tools such as the Community Benefits Charge contribute towards capital projects that advance the City's desired equity outcomes and aim to create complete communities where all residents have an equal opportunity to live, work and play. The impacts and benefits of growth are experienced unevenly by residents of Toronto - Indigenous, Black, and equity-deserving residents are often disproportionately impacted by the negative growth-related pressures from new development - through factors such as gentrification, displacement, rising rents, and increased demand on existing facilities and services. Although the City does not directly control where private development occurs, it does influence the types of in-kind facilities to be included in a development, in addition to selecting the tenant organizations using City facilities.

The Guidelines identify that community infrastructure should be developed in ways that support advancing equity and reconciliation outcomes. Recommendations and decisions regarding in-kind facilities should apply an equity lens and respond to the needs of communities impacted by new growth and development, as identified in City policy and through consultation with the affected communities. The Guidelines indicate that in-kind contributions should prioritize securing City-owned community infrastructure that support the City's commitments and strategies to advancing equity, inclusion, and reconciliation outcomes. Furthermore, through the application of the In-kind Guidelines, the City should explore opportunities to use the CBC to support ownership of land or

facilities by Indigenous community organizations, in alignment with the City's Reconciliation Action Plan.

DECISION HISTORY

At its meeting on July 19, 2022, City Council adopted Item [EX34.2 - Growth Funding Tools - Community Benefits Charge](#), which recommended a [CBC Strategy](#), with an [Addendum](#), in compliance with provincial legislation.

At its meeting on August 15, 2022, City Council enacted [By-law](#) 1139-2022 to adopt a Community Benefits Charge By-law for the City of Toronto as City of Toronto Municipal Code Chapter 415, Development of Land, Article VI that replaced the former Section 37 height and density bonusing in the Planning Act.

At its meeting on January 26, 2024, Budget Committee considered [Briefing Note 32 - 2024 Budget Briefing Note - Community Benefits Charge \(CBC\) Update](#). This briefing note provided an update on the CBC funds collected to-date and the work underway on the framework for allocating future CBC funds.

COMMENTS

Legislative Framework

Community Benefits Charges are secured and collected pursuant to [Section 37 of the Planning Act](#). To collect CBCs, the *Planning Act* requires the City to enact a CBC bylaw, which is supported by a CBC Strategy. Section 37 of the *Planning Act* requires that the CBC not exceed a prescribed percentage of the value of the land, established in [O. Reg 509/20](#) at a maximum of 4% the day before the day the building permit is issued in respect of the development or redevelopment. The CBC applies to development at least five storeys in height and containing at least ten residential units, unless otherwise excluded or exempt. Statutory exemptions include retirement and long-term care homes, universities, colleges, Indigenous institutes, Royal Canadian Legion buildings, non-profit housing. This charge is meant to pay for the capital costs of facilities and services required as a result of growth, in combination with other available funding sources such as Development Charges or parks levy.

Subsection 37(6) of the *Planning Act* allows a landowner to provide in-kind contributions, services or matters required because of development or redevelopment in the area to which the by-law applies. City Council is responsible for accepting an in-kind contribution. While in-kind contributions are not tied to any planning approval, it is common to bring forward in-kind offers in a staff report regarding the development or as part of a settlement report stemming from an Ontario Land Tribunal appeal. Alternatively, an in-kind offer may be advanced through a stand-alone report. The City must advise the landowner of the value attributed to the in-kind benefit, and this value is deducted from the amount that the landowner would otherwise be required to pay under

the CBC by-law. In-kind contributions are secured through an agreement registered on title between the landowner and City.

At its July 19, 2022 meeting, City Council endorsed the Community Benefits Charge Strategy (dated April 2022) and Community Benefits Charge Strategy Addendum (dated June 2022). The CBC Strategy and Addendum have been consolidated into a [single document](#). Together these documents are the City's CBC Strategy required by the *Planning Act*. The Strategy estimates anticipated development and associated capital needs arising from eligible development. The previous Density Bonus provisions set out in Section 37 expired on August 15, 2022, when City Council enacted a CBC by-law ([By-law 1139-2022](#)).

Priorities for In-kind Benefits

Not all sites are appropriate for in-kind contributions, and not all types of CBC eligible capital projects are appropriate as in-kind contributions. For example, some sites in dense urban environments may be too constrained to accommodate the minimum requirements for a proposed benefit - in the case of a child care facility, it may not be feasible to provide the minimum 929 square metres (10,000 square feet) interior space, along with required outdoor space for a child care facility within the first or second story of a proposed development. In other instances, the estimated CBC may not fully cover the cost of the proposed benefit. Some capital improvements, although eligible for CBC funds, may be more appropriately and efficiently delivered by the City as opposed to a developer or third party as an in-kind benefit.

In some cases, multiple City and community objectives may need to be balanced, particularly considering that the value of the contribution may not exceed a total value of 4% of the value of the land, as established in Ontario Regulations (O. Reg 509/20). Although the Guidelines do not provide a single solution or process for balancing these competing priorities, they include considerations intended to help guide the recommendations of City Staff and the decisions of members of Council while supporting discussions between all parties.

Guideline Development, Consultation and Feedback

City staff developed the In-kind Guidelines in collaboration with representatives from a range of City divisions and agencies through a Working Group that provided input and feedback on the Guidelines as well as sector-specific guidance on in-kind contributions. Membership of this group consisted of:

- Children's Services
- City Planning - Urban Design (Public Art and Heritage Planning)
- Corporate Real Estate Management
- Development Review - Community Planning
- Economic Development and Culture
- Finance and Treasury Services
- Housing Secretariat
- Indigenous Affairs Office
- Legal Services - Planning and Tribunal Law

- Parks, Forestry and Recreation
- Social Development, Finance & Administration - Community Infrastructure Unit
- Social Development, Finance & Administration - Confronting Anti-Black Racism Unit
- Toronto Public Library
- Transportation Services.

Working Group members provided advice on the principles identified in the Guidelines, and also crafted the specific sector standards that apply to various contributions.

City staff held information meetings for members of Council and the Mayor's office in June 2024. Sixteen Councillor's offices and the Mayor's office attended these meetings, and feedback and questions from these sessions helped inform the thematic areas addressed by the Guidelines.

Although they are intended to be publicly accessible, the Guidelines are a procedural document. As such, broader public or community consultation did not form part of the consultation for this project. However, public and sector consultation on specific community infrastructure needs is included as part of local area planning initiatives (such as secondary plans), as well as through sector facilities plans.

CBC Allocation Framework

If no specific benefit on or in the vicinity of a development site is identified, the general direction of CBC funds will happen through the City's annual capital budget process, in alignment with the CBC Allocation Framework (the "Allocation Framework"). This supports a consistent, transparent, and coordinated approach to allocating limited CBC funds while complying with legislative requirements. The Allocation Framework has been developed by Financial Planning, in consultation with the Chief Financial Officer and Treasurer, as a separate yet parallel stream of work from the In-kind Guidelines. Although separate, there has been frequent discussion and coordination between the two project teams to ensure the Allocation Framework and In-kind Guidelines are aligned.

The Allocation Framework adopts a principles-based approach built on foundational principles of financial stewardship in capital budgeting for growth projects, including:

- **Growth Pays for Growth:** CBC funds are allocated primarily to the geographic areas where they are collected, with flexibility to support high-priority citywide initiatives, such as affordable housing.
- **Complete Communities:** Ensures strategic allocation across eight service categories identified in the CBC Strategy to foster well-rounded, vibrant neighborhoods.
- **Capacity to Deliver:** Prioritizes projects that are ready to proceed efficiently, ensuring timely and impactful use of funds.
- **Prioritization of Funding Sources:** Coordinates CBC funds with other municipal resources, primarily reserving CBC allocations as a supplementary source for projects.

Similar principles guide the application of the In-kind Guidelines.

The Allocation Framework allocates at least 60% of the CBC Reserve Fund balance annually to capital projects through the City's budget process. The allocations are informed by City division/agency percentage allocations, based on growth-related needs outlined in the CBC Strategy. Furthermore, provision for adjustments to allocations in-year provide flexibility in response to specific planning applications, and localized needs of Councillors.

The Allocation Framework establishes a governance structure, and is a key instrument in managing public resources, contributing to sound financial decision-making, enhanced accountability, and transparency in managing the distribution of the receipt of CBC funds. City staff recognize that priorities and circumstances may evolve. To ensure it continues to meet City objectives effectively, the Allocation Framework will be revisited and refined as required, allowing for adjustments based on new data, policy changes, or emerging needs. The CBC Allocation Framework Budget Briefing Note will be circulated to the Mayor and Members of Council as part of the January Budget Committee agenda.

In-kind CBC Contributions to Date

Since the City adopted the Community Benefits Charge By-law in August 2022, a process to assess, recommend, accept, and secure in-kind CBC contributions has been established in practice. The Guidelines have been informed by the emerging best practices and lessons learned from this process to date.

At the time of this report, Council has accepted 32 in-kind CBC contributions, consisting of:

- 17 Developments with Affordable Housing (approximately 473 Units)
- 4 Child Care Facilities
- 2 Community Spaces
- 4 Parkland (Additional Conveyance)
- 4 Active and Sustainable Transportation related contributions
- 1 Public Art contribution.

Although they are not tied to any planning approval, in-kind contributions have been most commonly accepted as part of a staff report regarding the development, or as part of a settlement report stemming from an Ontario Land Tribunal appeal. Between August 16, 2022 and December 18, 2024, Council approved, or accepted as part of an OLT settlement, 202 site-specific zoning amendments, of which 31 (15%) included some form of in-kind contribution¹. In addition, one in-kind contribution has been accepted through a stand-alone report. No in-kind contributions have been delivered yet.

¹ Data for zoning by-law amendments between October 1, 2024 to December 18, 2024 is preliminary due to the ongoing maintenance and verification of the data at the time of analysis.

Next Steps

The Guidelines will be published on the Section 37 Community Benefits Charge [webpage](#) and shared as part of development review meetings with landowners. Staff will be undertaking training in early 2025 with all relevant staff involved in the development review process. Staff will also be preparing a plain-language, accessible public brochure describing the Community Benefits Charge in the first half of 2025. This brochure can be distributed at in-person public meetings as well as shared electronically.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Community Benefits Charge In-kind Guidelines