

City of Mississauga
Corporate Report



<p>Date: March 18, 2022</p> <p>To: Mayor and Members of Council</p>	<p>Originator's files:</p>
<p>From: Shari Lichterman, CPA, CMA, Commissioner of Corporate Services and Chief Financial Officer</p>	<p>Meeting date: April 6, 2022</p>

Subject

2022 Development Charges and Community Benefits Charges Public Meeting

Recommendation

1. That the draft 2022 Development Charges Background Study and draft Development Charges By-law be considered at the public meeting convened in accordance with the requirements of subsection 12(1) of the *Development Charges Act* on April 6, 2022; and
2. That the draft 2022 Community Benefits Charges Strategy and draft Community Benefits Charges By-law be considered at the public meeting convened on April 6, 2022.

Executive Summary

- Recent legislative changes have triggered the need to update the 2019 Development Charges (DC) Background Study and By-law and to develop a Community Benefits Charge (CBC) Strategy and By-law. This will allow the City to collect additional and new revenue related to growth.
- The DC Background Study update includes a review of new eligible services, removal of the 10% discount on current soft services and removal of non-eligible services (e.g. parking).
- The CBC regime replaces the density bonusing regime previously authorized through the *Planning Act*, and can only be levied upon Council-approval of a CBC Strategy and By-law. The CBC Strategy and By-law establish a four per cent of land value rate on eligible developments, which can be charged toward growth related services that are not covered by DCs.
- The *Development Charges Act, 1997* requires that a public meeting be held prior to the passage of a Development Charges By-law that allows any person who attends the meeting to make representations relating to the proposed Development Charges By-law.
- Legislative requirements for a public meeting and release of the Development Charges Background Study and proposed DC By-law have been met.

- Based on the proposed 2022 DC Background Study and By-law, the Non-industrial DC rate is increasing by 43 per cent. The Industrial DC rate is increasing by 45 per cent. The Residential DC rates are increasing by 17 per cent for all housing types. The Special Care Unit rate is a new rate category.
- Section 37 of the *Planning Act* sets out the legislative requirements pertaining to the CBC. No public meeting is required, however, staff have advertised that a public meeting will be held at the same time as the statutory DC public meeting, to provide residents and industry members an opportunity to provide feedback on the CBC strategy.
- Stakeholder engagement sessions have been conducted and feedback has been received from building industry representatives concerning the DC and CBC proposed rates prior to the public meeting on various issues.

Background

Legislative Changes – Development Charges

The City's last Development Charges (DC) By-law was approved in June 2019. As per the *Development Charges Act*, DC by-laws are required to be reviewed and updated every five years. The City's next review would have been completed by 2024, however, given the significant changes to legislation in 2020, the City needed to initiate an update to the Background Study and By-law in order to benefit from those changes. On July 8, 2020, the Province introduced an omnibus bill, the *COVID-19 Economic Recovery Act, 2020* (Bill 197), which included a number of changes to the *Development Charges Act* and *Planning Act*.

The following legislative changes were reviewed as part of the DC By-law update:

- Eligible new services
- Removal of the 10% discount on current soft services
- Removal of services no longer eligible for DCs (e.g. parking)

As part of the review, staff are proposing the introduction of a new rate category called "Special Care Unit" under the residential DC rate structure.

The *Development Charges Act, 1997* (DC Act) requires the following steps be completed prior to the approval of a new DC By-law:

- Council must hold a public meeting;
- Public notice of the public meeting must be given at least 20 days before the meeting;
- The DC Background Study must be released to the public at least 60 days before the passage of the DC By-law; and
- The draft DC By-law must be released to the public at least two weeks prior to the public meeting.

The City has met the legislative requirements as dictated by the DC Act and anticipates Council will be in a position to approve the 2022 DC Background Study and By-law at the Council meeting on May 4, 2022. The City placed notices in the Mississauga News on March 10 and 17, 2022 advising the public of the public meeting, as well as the release of the Background Study and proposed By-law. A news release was also issued and posted to the City's website on March 4th when the proposed DC Background Study and CBC Strategy were released.

Legislative Changes – Community Benefits Charge (CBC)

The *Planning Act* was amended to replace the Bonus Zoning (Section 37) provisions with a new growth-related revenue tool called the Community Benefits Charge (CBC). The 'new' Section 37 of the *Planning Act* replaces language in the previous Section 37 that gave municipalities the authority to grant increases in height and/or density in exchange for community benefits ('density bonusing'). The shift from a density bonusing regime to a CBC regime is intended to provide a more predictable environment for property developers to pay for, and municipalities to fund, growth-related infrastructure and services.

The CBC is capped at four per cent of land value at the day prior to building permit issuance and is imposed on developments with five or more storeys and 10 or more residential units.

The changes to comply with the amended legislation are to be completed by September 18, 2022, at which time, the density bonusing regime in Ontario will end. In order to transition to the CBC regime without disrupting the City's ability to recover growth-related costs, Council must enact a CBC By-law, supported by a CBC Strategy, prior to the September 2022 deadline. Once a new CBC By-law is passed by Council, the City would no longer be able to negotiate and enter into any new bonus zoning agreements, however, any existing bonus zoning agreements would remain in effect.

The CBC By-law is subject to appeal to the Ontario Land Tribunal (OLT).

Procurement

Hemson Consulting Ltd. was retained to work with staff on the update to the DC Background Study and new CBC Strategy. The consultants were also retained to work on the Parkland Conveyance By-law update. Staff undertook a coordinated approach to these three projects because of the provincial timelines and the ability to meet with industry members in a more efficient manner. At the public meeting on April 6, 2022, Hemson Consulting will be providing a deputation on DC information and proposed DC rate changes, as well as, an overview of the approach and methodology used to develop the new CBC Strategy. Any person who wishes to address Council may do so at that time.

Comments

Draft 2022 Development Charges Background Study and By-law

The Development Charges Background Study (prepared by Hemson Consulting Ltd.) was made available to the public on March 4, 2022, which is 60 days prior to the anticipated passage of the DC By-law, as required by legislation. The DC By-law was made available on March 23, 2022 which is 14 days prior to the public meeting, as required by the DC Act. The documents were made available on the City's website¹ and a link to the documents was sent to our stakeholder contact list via email.

City Initiated Reviews

Many major issues were dealt with as part of the 2019 DC Background Study update. Staff did review a number of policy issues as part of the 2022 DC study update, some of which no changes were proposed since the changes were relatively recent and there was no new information to warrant a change.

The following reviews were initiated by staff and have been introduced as part of the 2022 DC Background Study update.

- **Review of Industrial Floor Space per Worker (FSW):** As part of the negotiated settlement of an appeal to the City of Mississauga's 2014 DC By-law, the City agreed to undertake a more detailed analysis of the Industrial FSW factor, including underlying assumptions, data inputs and methodology, prior to this DC By-law review. The City retained Cushman and Wakefield to undertake this work. Staff worked closely with the consultant and provided available data on industrial building types. The analysis resulted in a FSW of 130m². The rate is subsequently adjusted to account for "no fixed place of work" (NFPW) to account for those occupations that do not necessarily have a permanent location (e.g. truck drivers, real estate agents, etc.). The adjusted rate is 110 m² per employee, which is the current Industrial FSW factor, resulting in no change. Staff is satisfied that this is a fair and reasonable rate and this has been incorporated into the 2022 DC Background Study.
- **Special care unit rate:** Staff are proposing a new rate category called "Special Care Unit" rate. The proposed rate category reflects one person per unit (ppu), i.e. based on the number of beds or bedrooms, as the case may be, and will include long-term care facilities and hospices. These uses are currently charged at the higher small unit residential rate, which is based on a higher ppu. The proposed Special Care Unit rate is lower and better captures the growth-related demand on services for these uses.
- **Use of incentives to support defined non-profit developments:** Council considered a report on March 30, 2022 (in advance of this report to Council) entitled "Development

¹ The draft 2022 DC Background Study and draft by-law can be found on the 2022 Development Charge By-law Review website: <https://www.mississauga.ca/projects-and-strategies/city-projects/2022-development-charge-by-law-review/>

Charges Grant for Eligible Non-Profit Developments Corporate Policy”. A corporate policy is proposed that would allow for grants for eligible non-profit developments, including long-term care homes, hospices, shelters and transitional homes. The grant is intended to reimburse non-profit organizations on the City portion of development charges paid on eligible developments. This grant is provided to eliminate the need for one-off reports to Council and the policy is outside of the DC By-law to allow for transparency and proper budgeting on an annual basis.

Based on the proposed 2022 DC Background Study and By-law, the Non-industrial DC rate is increasing by 43 per cent. The Industrial DC rate is increasing by 45 per cent. The Residential DC rates are increasing by 17 per cent for all housing types. The Special Care Unit rate is a new rate category. An underlying policy objective continues to be growth-pays-for-growth to the extent permissible under the DC Act.

Stakeholder feedback

Staff has received limited written feedback on the DC Background Study and proposed rates. Through discussions, there has been more commentary provided that generally focuses on the cumulative impact of rate increases (including DCs, CBCs and CIL of Parkland) and the request for incentives for a range of housing types and tenure. Staff has evaluated feedback received from the stakeholder engagement sessions and staff responses are provided below.

The following summarizes the most significant areas of stakeholder feedback to date and the City’s response to each.

- **Timing of capital projects:** A written comment was submitted that requested the City review and reconsider the timing of major capital projects in order to reduce the rate for transit services and roads and related infrastructure.
 - Staff Response: The DC capital program was approved by Council in June 2021 as the basis for the DC Background Study. Changes to the capital program are at the discretion of Council. In order to reduce the DC charge, projects would either need to be removed or delayed. Otherwise, taxes would need to be increased to offset any reductions to the DC rates.
- **Incentives for market rental housing:** Developers of market rental housing have requested that the City provide some form of incentive to them to increase the supply of market rental housing. They indicated that the newly implemented zero per cent deferral interest rate, is nice but not enough. They emphasized that the need is beyond affordable housing and that market rental housing supply is an issue for Mississauga.
 - Staff Response: The City implemented a zero per cent deferral interest rate for rental and non-profit developments in 2021. The estimated cost of this on an annual basis is \$2.8M, which is paid for through either reserves and/or tax capital. Any additional incentives would be at the discretion of Council and would most likely be funded by tax revenue.

- The City recognizes the importance of providing a suite of housing types and tenures to accommodate existing residents and those looking to locate in Mississauga. The City is committed to looking at various programs and work with partners to increase housing supply and encourage more affordable housing in the city. Finance staff will continue to work with Planning staff on housing initiatives that require funding sources and can report back to Council on those incentives when programs are established.
- **Floor Space Per Worker (FSW):** The issue of how FSW is determined has been and continues to be raised as an issue for industrial development. The City retained external consultants (Cushman and Wakefield) to conduct an analysis for an FSW threshold. They came up with 130m² per worker (1,346 sq. ft.). This number is then adjusted to account for NFPW. The adjusted rate is 110 m². The developer does not agree with the adjustment for NFPW.
 - Staff Response: The issue of NFPW came up as part of the 2014 DC By-law appeals and at that time, the City committed to reviewing the rate at a future study. The City retained external consultants to conduct this work and used available industrial building inventory from the City. Data is limited, but enough to establish a trend amongst existing industrial building stock in the city. Staff, as well as Hemson Consulting, feel that the adjustment is fair and reasonable. Furthermore, similar adjustments have been supported in other municipalities by the Ontario Land Tribunal. The DC Background Study reflects the Industrial FSW with the NFPW adjustment.
- **Adjustments as a result of Population Census Release:** The industry has inquired if the DC Background Study will be adjusted to reflect the newly released Census population figure, which reported a lower than expected population for Mississauga for 2021.
 - Staff Response: At the time of the drafting of the DC Background Study, updated growth forecasts were not available. Finance staff has relied on draft forecasts from the Planning and Building Department that were being worked on in conjunction with the Region and approved by Council in April 2021. Staff will need to consider other Census releases, such as household size, before changing any inputs to the Background Study.

A summary of the proposed DC rates are contained in Appendix 1 of this report.

Draft 2022 Community Benefits Charge Strategy and By-law

The Community Benefits Charge Strategy (prepared by Hemson Consulting Ltd.) was made available to the public on March 4, 2022. Although there are no legislative requirements to hold a statutory public meeting or to release draft CBC documents to the public prior to Council approval, City staff are following public consultation requirements for the DC Background Study, to bring the draft CBC Strategy and By-law forward for public review in tandem with the draft DC

Background Study and By-law. The documents were made available on the City's website² and a link to the documents was sent to our stakeholder contact list via email.

A CBC is a new growth-funding tool (GFT) that allows municipalities to levy a charge against certain forms of higher density development to fund associated development-related capital infrastructure needs. Municipalities can use CBCs to fund a wide-range of capital costs, of any municipal service, that are related to the needs associated with new growth if those costs are not already recovered from development charges and parkland provisions. A CBC can be used to fund services provided for under a DC by-law, and for parkland acquisitions, as long as there is no duplication of recovery of the same capital costs under another GFT.

The City's draft CBC Strategy complies with the *Planning Act* and related regulation O. Reg. 509/20. The Strategy presents the estimated CBC development-related net capital costs attributable to CBC eligible development that is forecast to occur in the City. The CBC capital program service need of approx. \$140M (2022-2031) exceeds the amount that is forecasted to be collected during the same 10 years based on the maximum four per cent of land value rate permitted under the legislation. Therefore, the CBC charge will be based on four per cent of land value.

The CBC includes seven service categories that would provide various types of community benefits: Housing, Public Realm and Road Safety, Community Facilities, Active Transportation, Urban Parks, Parking, and Civic Administration. Under each of these categories are examples of specific projects identified in the City's 2022-2031 Capital Budget, as well as general provisions for capital costs based on historical community benefits secured through mechanisms like bonus zoning agreements. The approach to this list is to establish service categories that are broad enough to accommodate a wide-range of capital costs that can be funded by the CBC. The specific projects and general provisions that are identified, can be replaced with different capital needs, provided that the appropriate CBC-share and CBC-related costs are identified.

Stakeholder feedback

Staff has received limited written feedback on the CBC Strategy and proposed rate. Through stakeholder discussions, there has been more commentary provided that focus on the application of the CBC charge, exemptions and detail of service categories. Staff has evaluated feedback received from the stakeholder engagement sessions and staff responses are provided below.

² The draft 2022 CBC Strategy and draft by-law can be found on the Community Benefit Charge By-law Review website: <https://www.mississauga.ca/projects-and-strategies/city-projects/community-benefit-charge-by-law-review/>

- **Concern with double dipping of services:** The industry members have expressed concern over “double dipping” of services, specifically as it relates to housing. Industry members indicate that since housing is provided by the Region of Peel, they want to understand what are the capital costs for which CBC funds will be used and what housing is the City collecting for that is not already captured by the Region’s DC capital program?
 - Staff Response: Although the City is not the Service Manager for housing, lower-tier municipalities are often requested to provide financial support for affordable housing projects. Mississauga’s Housing Strategy – *Making Room for the Middle (2017)* identifies opportunities to remove barriers, including financial barriers to affordable housing. The City used the prior Section 37 bonusing regime to secure affordable housing units in a market project or cash to aid in the development of affordable housing off site. The provision of Housing as a Service Category in the CBC Strategy provides Council with flexibility to choose to use some of the CBC revenue to fund affordable housing programs in the future or accept in-kind contributions.
- **Clarification on Developer Contributions (Local Service) vs. CBC:** Industry members have asked for clarification if CBC credits will be provided for works done by the developer as part of developer contributions determined during the site planning process.
 - Staff Response: Staff have responded verbally and have amended the Public Realm and Road Safety service description to make clear that developer contributions will not qualify for CBC credits. The projects eligible under the CBC are not the same as those required by the developer during the site plan application process arising directly from the proposed development. The City’s Amended Boulevard Treatment for Rights-of-Ways is a condition of the site plan process and those works do not qualify for a CBC credit. The CBC charge will apply.
- **Application of Section 37 in the Downtown Core:** A couple of downtown land owners wrote to the City to say that the CBC should not apply to downtown properties since Section 37 had previously not been applicable.
 - Staff Response: The previous Section 37 or “density bonusing” provision did not apply to the Downtown Core because previous Section 37 contributions were provided in exchange for increased height and density and there are no height and density limits in the Downtown Core. The current Section 37 of the *Planning Act* is a different regime and payment of a CBC charge is not triggered by requests for increased heights or densities. Section 37 now provides that a CBC charge can be imposed on developments or redevelopments with five or more storeys and 10 or more residential units.

The CBC capital program is attached as Appendix 2.

Staff are not currently proposing a transition period for either the DC or CBC rates. The rates will come into effect on the day the by-laws are adopted by Council. It should be noted that the DC Act requires that any rate reductions during the transition period must be subsidized by other funding sources (such as tax funding or reserve funds) to make up for the shortfall in DC

revenues as a result of any decision to provide a transition period. Staff will be reviewing anticipated Section 37 agreements, and may consider a later date to seek Council approval and final passage of the CBC By-law to allow any outstanding zoning by-laws with height and/or density bonusing requirements to be finalized and brought to Council.

Engagement and Consultation

In addition to the minimum requirements of the DC Act, staff held six meetings with development industry stakeholders to ensure a transparent and open public process. The purpose of these meetings was for staff to present findings and to gather feedback. Where possible, this input is reflected in the DC Background Study and CBC Strategy. Table 1 below summarizes the dates of the stakeholder engagement sessions.

Table 1: Summary of Stakeholder Engagement Sessions

Meeting Type	Date
Technical Stakeholder Consultations Prior to Release of DC Background Study and CBC Strategy	April 29, 2021 July 7, 2021 November 10, 2021 December 6, 2021 January 31, 2022
Public Release of DC Background Study and CBC Strategy	March 4, 2022
Technical Stakeholder Consultation Sessions After the Release of DC Background Study and CBC Strategy	March 7, 2022

Also, several submissions from the development industry were received prior to the Public Meeting on April 6, 2022. Staff have responded in writing to these submissions and their concerns have been presented in this report.

In addition to the consultation meetings, staff prepared a Communications Plan that outlined targeted media releases and includes a social media component to educate the public on growth funding tools and notify residents of the proposed rate changes. A new website has also been created for Growth Funding Tools, which houses background information on DCs, CBCs and Parkland Conveyance and Cash-in-Lieu.

Financial Impact

The recovery of capital-related costs from future development is a crucial financial tool provided by the Province to ensure that development charges assist in recovering the cost of infrastructure required to support new growth in the City.

The DC rates proposed in the 2022 DC By-law represent projected revenue of \$1,337M over the ten-year period of the DC Study.

Projected DC Revenues (in \$ millions)			
Type of Development	2022-2026	2027-2031	Total
Residential	464.0	583.1	1,047.1
Non-Residential	167.2	122.8	290.0
	631.1	705.9	1,337.1

Specific DC rates by category are provided in Appendix 1.

The CBC is a new growth funding tool introduced by the Province in recent legislation. It allows municipalities to fund capital costs related to growth that are not already recovered from development charges and parkland provisions. The CBC capital program service need is approx. \$140M. A four per cent of land value CBC charge will result in annual CBC revenue of approximately \$5-6M. The CBC development-related capital program is provided in Appendix 2.

Conclusion

As part of the legislated requirements set out in the *Development Charges Act, 1997*, a public meeting must be held prior to the passage of a new DC By-law. The City will have met this requirement following the public meeting which is to be held on April 6, 2022.

The City is also undertaking a Community Benefits Charge Strategy and By-law, a new growth funding tool that can be used to fund capital costs not funded by DCs or cash-in-lieu of parkland. The CBC replaces the existing Section 37 Bonus Zoning regime and will be based on a four per cent of land value charge on eligible developments. A public meeting is not legislated, however, staff have aligned the release of the CBC Strategy and By-law with that of the DC Background Study and By-law to allow residents and industry stakeholders an opportunity to provide feedback on these growth funding tools.

Feedback received as part of the public meeting will be consolidated, a report will be prepared in response to issues raised, and any appropriate changes will be reflected in revisions to the documents. Staff plan on reporting back to Council to seek approval of the DC Background Study, CBC Strategy and related By-laws on May 4, 2022.

Attachments

Appendix 1: 2022 Proposed Development Charges Rates

Appendix 2: 2022 Proposed CBC Development Related Capital Program



Shari Lichterman, CPA, CMA, Commissioner of Corporate Services and Chief Financial Officer

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