

Community Benefits Charge

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Purpose statement

The purpose of this procedure is to establish the guidelines and process for collecting and utilizing community benefits charges in accordance with the Community Benefits Charge Policy.

Scope

This procedure applies to residential developments and redevelopments that are required to pay Community Benefits Charges (CBCs), in accordance with the Town of Oakville Community Benefits Charge By-law and the *Planning Act*.

Procedure

CBCs shall be collected and utilized in accordance with the *Community Benefits Charge Strategy* and CBC By-law. The following sections outline the administrative process for the CBC.

Calculation of CBC Payable

The amount of the CBC payable is 4% of the *value of land* subject to the development or redevelopment on the *valuation date*. If a development or redevelopment is to be constructed in phases, each phase of the development is deemed to be a separate development or redevelopment.

The *value of land* shall be determined by a land appraisal process as follows:

- The *owner* will contact the Manager, Realty Services no later than 90 days prior to the expected time of the first *building permit* for the development or redevelopment
- The Manager, Realty Services will coordinate a land appraisal to be used in calculation of the CBC payable following notification from the owner as outlined above
- The appraisal will be at the *owners'* cost in accordance with the Town of Oakville rates and fees
- Land appraisals shall be carried out under the direction of the Manager, Realty Services and shall be determined with reference to accepted appraisal standards and principles as outlined in the Canadian Uniform Standards of Professional Appraisal Practice
- The appraisal shall be reviewed and subject to satisfactory acceptance by the Manager, Realty Services
- CBC payable is established as 4% of the *value of land* on the *valuation date*

Timing of Payment

The calculated CBC payable must be paid to the town prior to the issuance of the first *building permit* unless alternative payment arrangements have been made satisfactory to the Town Solicitor and Treasurer.

Dispute Resolution

Where an *owner* of land is of the view that the CBC payable exceeds 4% of the *value of land*, the *owner* may pay under protest (the dispute resolution process is outlined in Appendix A). The *owner* is responsible for providing an appraisal at their cost to the town in dispute of the CBC payable. Should the town disagree with the *owner* appraisal, the town will fund and provide an appraisal. Should the difference between the *owner* appraisal and the town appraisal exceed 5%, the *owner* will select a person from the town list of appraisers to perform a final, binding appraisal, with the cost of the appraisal to be split evenly between the *owner* and the town. The town will maintain a list of appraisers in accordance with section 37(42) of the *Planning Act* for the purposes of the dispute resolution process.

At the conclusion of the dispute resolution process, any refund to the *owner* as a result of the difference between the final CBC payable and the amount paid under protest, will be made within 30 days without interest.

In-Kind Contributions

The town may permit *in-kind contributions* that provide *community benefits* at its sole discretion. *In-kind contributions* would be accepted in-lieu of the payment of the CBC otherwise applicable, in whole or in part. The following process shall be followed:

- During the planning approval process, the *owner* may propose the provision of an *in-kind contribution*

- Acceptable *in-kind contributions* include works that are consistent with the CBC Strategy and the service categories and types of capital facilities, services and matters outlined. Projects shall be delivered at town standards, with consideration of full life cycle costs
- A value of the *in-kind contribution* will be attributed by the town. The contributing *owner* will be expected to provide any third-party valuation documents as support, which staff will review for determination of the value
- The Director, Planning Services, through consultation with senior staff from relevant departments and the Treasurer, will provide a recommendation for the consideration of an *in-kind contribution* to the Executive Leadership Team (ELT)
- Upon approval by ELT, a report will be prepared by the Director, Planning Services to make a recommendation to Council to consider the acceptance of the *in-kind contribution* for the development or redevelopment
- Arrangements satisfactory to the Director, Planning Services, Town Solicitor and Treasurer for the provision of *in-kind contributions* include a requirement for the owner to enter into an agreement with the town, including, without limitation, a requirement to post securities and register any related restrictions on title to the land
- The town may index the assigned value of an *in-kind contribution* from the time the value is established to the time the CBC is payable. Indexing provisions would be stipulated in the agreement, using an index that generally reflects the expected change in value of the in-kind contribution (ie. Statistics Canada Quarterly Construction Price Statistics)
- The CBC payable for the development or redevelopment will be reduced by the value that the town has attributed to the *in-kind contribution*. In no case will there be a refund should the value of the *in-kind contribution* exceed the CBC payable

Administration

The Treasurer will administer and report on the collection and utilization of CBCs as follows:

- Monies received from payment of CBCs shall be maintained in a separate reserve fund
- Income received from investment of the CBC reserve fund shall be credited to the CBC reserve fund in accordance with the town's Reserve/Reserve Fund Procedure.
- The Treasurer shall, in each year, furnish to council and make available to the public on the town website a statement in respect of the reserve fund established hereunder for the prior year, containing the information set out in section 7 of the *regulation*, which include statements identifying:
 - facilities, services and matters acquired during the year with funds from the reserve fund;
 - facilities, services and matters accepted as *in-kind contributions*;
 - details of the amounts spent,

- for each facility, service or matter acquired, the manner in which any capital cost not funded from the reserve fund was or will be funded.
- the amount of any money borrowed from the reserve fund and the purpose for which it was borrowed
- the amount of interest accrued on any money borrowed from the reserve fund
- Through the annual budget process, funding recommendations will be made to spend or allocate at least 60% of the monies in the reserve fund at the beginning of the year over the 10 year Capital Forecast
- Monies received from payment of CBCs, or as *in-kind contributions* in-lieu of payment, shall be used in accordance with the CBC Strategy, and the service categories and types of capital facilities, services and matters eligible to use funds from the CBC

Exemptions and Reductions

Certain types of development, as outlined in the *regulation* and CBC by-law, are exempt from the payment of CBCs. These include long-term care homes, retirement homes, certain post-secondary institutions, certain structures through the Ontario branch of the Royal Canadian Legion, hospices, and non-profit housing.

For those developments and redevelopments for which the CBC applies, there will be no exemptions or reductions associated with:

- The town's Development Charges by-law
- The town's Parkland Dedication by-law
- Any works undertaken by the owner as a condition of the site plan approval process, or related planning or servicing agreements or other development-related agreements considered distinct and separate from the CBC Strategy and CBC by-law

References and related documents

Planning Act, R.S.O. 1990, c. P.13
Ontario Regulation 509/20
Community Benefits Charge By-law
Community Benefits Charge Strategy
Community Benefits Charge Policy |

Definitions

Building permit means permit under the Building Code Act for construction at or above the *first storey* of a building

Community benefits means the capital costs of facilities, services and matters required for development and redevelopment of all lands in the geographic area of the Town of Oakville

Community Benefits Charge Strategy means the Community Benefits Charge Strategy prepared pursuant to subsection 37(9) of the Planning Act;

first storey means the *storey* of a building, structure or part thereof, that has its floor closest to *grade* and having its ceiling more than 1.8 metres above *grade*;

grade means the average level of finished ground adjoining a building or structure at all exterior walls;

in-kind contribution means facilities, services or matters identified in the Community Benefits Charge Strategy and required because of development or redevelopment to be provided by an owner of land, in lieu of payment of the community benefits charge otherwise applicable, in whole or in part;

owner means the owner of land or a person who has made application for an approval for the development or redevelopment of land upon which a community benefits charge is imposed;

regulation means O. Reg. 509/20 as amended or successor regulation;

storey means that portion of a building that is:

- (a) situated between the top of any floor and the top of the floor next above it; or,
- (b) if there is no floor above it, that portion between the top of such floor and the ceiling above it

town means The Corporation of the Town of Oakville

valuation date, with respect to land that is the subject of development or redevelopment, refers to:

- (a) the day before the day the *building permit* is issued in respect of the development, or
- (b) if more than one *building permit* is required for the development, the day before the day the first *building permit* is issued;

value of land for the purposes of determining the *community benefit charge* payable, refers to appraisals of land value, which shall be carried out under the direction of the Manager, Realty Services, and shall be determined with reference to accepted appraisal standards and principles as outlined in the Canadian Uniform Standards of Professional Appraisal Practice;

Responsibilities

The Manager, Realty Services shall be responsible to:

- Coordinate the timing of land appraisals
- Complete the calculation of the CBC payable
- Oversee the dispute resolution process including any refunds required
- Maintain a list of appraisers in accordance with subsection 37(42) of the *Act*

The Director, Planning Services shall be responsible to:

- Identify developments and redevelopments that are required to pay CBCs
- Manage requests for *in-kind contributions* during the planning approval process
- In coordination with the Treasurer, recommend the consideration of *in-kind contributions* to the Executive Leadership Team (ELT)
- Upon approval from ELT, prepare reports to Council recommending the consideration of an *in-kind contribution*

The Treasurer or designate shall be responsible to:

- Ensure the CBC condition on applicable development or redevelopment is satisfied prior to the issuance of a *building permit*
- In coordination with the Director, Planning Services, recommend the consideration of *in-kind contributions* to the ELT and Council
- Administer the collection and utilization of CBCs
- Provide an annual report to Council as required by the *regulation*
- Provide recommendations for the use of CBCs through the annual budget process

The Town Solicitor or designate shall be responsible to:

- Administer agreements associated with in-kind contributions
- Administer agreements associated with early or late payment arrangements

Appendices

Appendix A - CBC Dispute Resolution Process

Town of Oakville
 Community Benefits Charge Application and Calculation Process

