

# Developer Contributed Public Amenities in Direct Control Zoning

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## Recommendation

That Administration prepare a Council policy to implement the amenity contributions framework as outlined in Attachment 1 of the November 29, 2017, Urban Form and Corporate Strategic Development report CR\_4814, and return to Committee in June 2018.

## Previous Council/Committee Action

At the May 3, 2017, Urban Planning Committee meeting, the following motion was passed:

1. That Administration work with the Direct Control Zoning Industry Working Group to develop an alternative approach for developer contributed public amenities secured through Direct Control Provision zoning and return to Committee.
2. That Administration develop a mechanism to add some initial community perspective to the Direct Control Zoning Industry Working Group.

## Executive Summary

Administration and a stakeholder working group have developed a framework to provide additional predictability and transparency to the process of securing amenity contributions through direct control rezoning. The framework provides the key principles, criteria, and implementation steps to guide the future development of a City policy. Developing a policy and process based on this framework will provide clear rules and expectations for amenity contributions, reducing confusion and improving outcomes for all stakeholders.

## Report

### Background

Direct control zoning is a regulatory tool granted to Council through section 641 of the Municipal Government Act. This type of zoning allows Council to exercise particular control over the use and development of land or buildings within an area in any manner it considers necessary. When a proposed direct control zone would allow for

an increase in the scale and intensity of development beyond the vision of the approved area plan or current zoning, it is referred to as an “upzoning”.

Upzonings can have a large impact on communities. To offset potential negative impacts and enhance the project’s contribution to the local community, direct control zones require developers to contribute public amenities. Contributions associated with upzoning have included:

- the provision of public art
- streetscape and landscaping improvements on public land
- heritage preservation
- the provision of affordable housing units (provided through policy C582)
- the inclusion of family-oriented housing, and more

The cost of these contributions to the developer are offset by increases to a parcel’s density, allowing for larger buildings and more development revenues.

Amenity contributions are only one of many matters considered by Administration when reviewing an application to rezone to a direct control provision, but it is a matter that Council, Administration and stakeholders have agreed requires process improvements.

### **Current practice**

Each direct control zone is customized to a specific site, and, therefore, requires active negotiation between the applicant and Administration on uses, design, and amenity contributions, among other things. Currently, these rezoning negotiations are guided by a review of the current zoning, Council-approved statutory plans such as area redevelopment plans, and guidelines such as the *Transit Oriented Development Guidelines*.

Administration’s past and current practice is to use precedent established by other Council-approved direct control zones to guide negotiations when considering amenity contributions to include in a proposed direct control zone. Community consultation done by applicants and Administration has also helped determine contributions on a case-by-case basis. This has resulted in a practice that is flexible but unclear to stakeholders. With the exception of City Policy C582 - Developer Sponsored Affordable Housing, there are currently no Council-approved policies or guidelines to direct Administration’s negotiations on amenity contributions associated with direct control zoning provisions.

The absence of clear direction in this matter contributes to uncertainty for applicants and Administration when considering whether contributions are sufficient and appropriate, relative to increases in development rights and impact on the surrounding area or the City as a whole. This uncertainty can add to rezoning review timelines as

Administration and applicants negotiate the finer details of the direct control zone for Council's consideration. It can also result in a lack of clarity and perceived lack of transparency regarding how public contributions are determined and valued. This lack of clarity undermines public understanding and engagement in the rezoning process. While the current approach has produced tangible benefits for communities, it lacks predictability and transparency for all parties involved in the rezoning process.

### Framework for an alternative approach

To address these concerns and develop a better process, Administration assembled a working group of industry and community members who are familiar with amenity contributions in Edmonton, and procured third party expertise on amenity contribution systems. Through a series of workshops, the working group considered Edmonton's current approach, the approaches used in other cities, and principles to support an improved process in Edmonton. The result of this work is a new framework for amenity contributions in direct control provisions (Attachment 1).

The framework

- establishes key principles for an alternative approach,
- provides criteria for the type of development affected by the approach,
- describes how the approach will work, and
- explains the next steps required to enact the approach through a Council policy.

Key principles

1. **Transparency** - all stakeholders can understand how the system works, their respective roles, what is required, permitted, and accepted, how resources are used.
2. **Predictability** - stakeholders can understand the impacts of amenity contributions for a project before a rezoning application is submitted.
3. **Flexibility** - applicants can provide in-kind contributions, or cash-in-lieu contributions to specific, local amenities, at their discretion.
4. **Contribution stability** - a new system will not seek to increase or decrease contributions from the current average contribution amount.

### Criteria for requiring amenity contributions

Application is:

- Site Specific Development Control Provision (DC2) or Direct Development Control Provision (DC1),
- A rezoning that increases density beyond that permitted in the existing zone or described in the Area Redevelopment Plan, where applicable, and
- For a redevelopment site (not greenfield development).

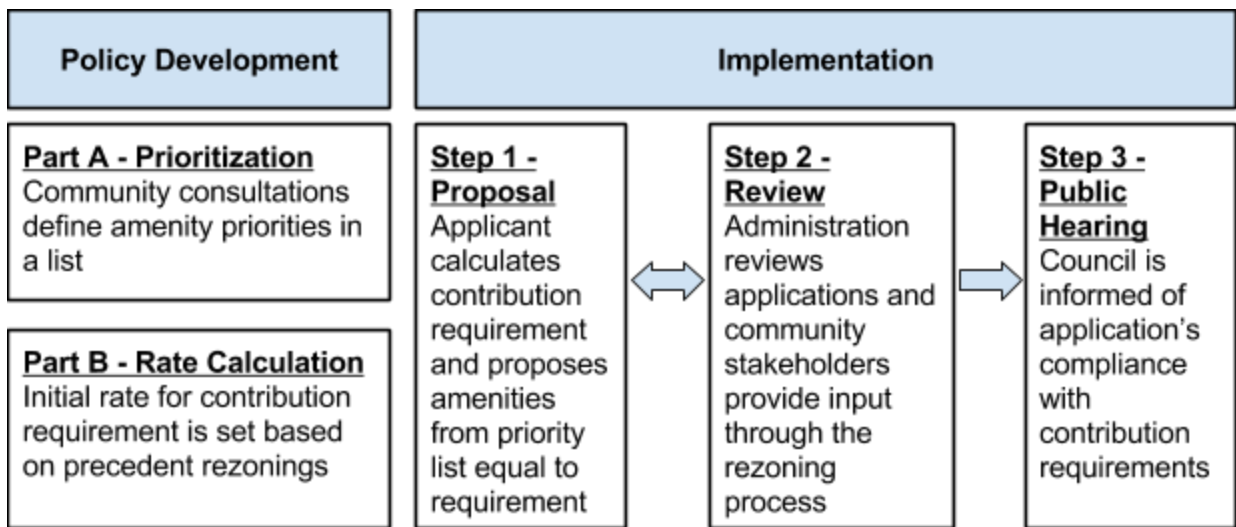
These criteria are in keeping with current practice, and reflect the key principle of contribution stability.

**Policy Development**

Implementing the framework requires the preparation of a new Council policy to provide the transparency necessary to allow developers and communities to understand expectations and make decisions about rezoning proposals.

This policy is not intended to affect the provision of affordable housing, which is provided for by Policy C582, to avoid creating conflicts between affordable housing goals and other amenity contributions.

The high level policy development and implementation steps described in the framework are as follows:



For Part A - Prioritization, Administration will work with communities experiencing frequent direct control upzonings to create a list of desired amenities that reflect their priorities, drawing on recent and ongoing engagement work in these areas. Consultation work will help communities understand the role of amenity contributions in the rezoning process and establish common expectations for the type of amenities that might be provided through redevelopment. These expectations will be informed by the work of Part B, which will confirm the amount of contributions required.

Initially, a single amenity priority list will be developed for all areas of the city. Depending on the input received through initial consultation, area-specific lists could then be developed to better reflect different priorities in different communities. A list of amenity priorities will help developers prepare direct control rezoning applications that reflect community priorities, and will help citizens set reasonable expectations for amenities.

For Part B - Rate Calculation, Administration will work with industry and appraisal experts to establish the initial rate for amenity contributions. The rate will be determined by the average contribution made in direct control rezonings approved between 2010 and 2017. This will ensure that the amenity contributions under the new framework are equivalent to the average contribution in recent years, providing stability to the market.

The rate will indicate how much amenity contribution is required in a rezoning, based on the increase in density proposed. Initially, a single rate will be applied for the entire city, and will be periodically adjusted for inflation. Over time, and as needed, separate rates could be established to more closely link requirements to local land markets.

### **Implementation**

In Step 1 - Proposal, an applicant can access the published rate, information on amenity values, and the amenity priority list online. This allows them to determine, in advance of an application, the amount of amenity contribution required based on the increase in density they will propose. Using the amenity priority list as a guide, they will propose amenity contributions equal to or greater than the required amount.

In Step 2 - Review, communities continue to be involved in the rezoning process as usual, and may seek changes to the selected amenities. All other aspects of Administration's review of the proposed rezoning remain the same as they are currently, including public engagement. However, the amount of contribution required is set by the established rate, and is not subject to negotiation.

In Step 3 - Public Hearing, Council receives the application through the public hearing process, as is currently done. The Administration report will indicate the amenity contribution requirement and if the application has met the requirement with its proposed amenity contribution.

### **Next Steps**

With Committee direction to prepare a policy in accordance with the proposed framework, Administration will:

- begin broader public engagement with affected communities and stakeholders,
- align amenity priorities with current plans, studies, and ongoing initiatives, and
- complete valuation work to establish the rate,

A draft Council policy will be brought to Urban Planning Committee in June 2018.

### **Budget/Financial**

If the framework is approved, subsequent policy development work will be funded from the existing operating budget. The policy will include a financial process to administer any cash-in-lieu amenity contributions.

### Public Engagement

During the initial stage of this work, Administration worked closely with a group of consultants and developers to understand industry perspectives. As directed by the motion given by Committee in May, two representatives of the Edmonton Federation of Community Leagues were then added to this group. Administration also met with the Urban Development Institute and the Edmonton Federation of Community Leagues to explain the framework and next steps with regards to broader public engagement.

If Committee recommends policy development in accordance with the framework, Administration will begin broader consultation, working primarily through the Edmonton Federation of Community Leagues to connect with community members in areas affected by direct control upzonings. Administration will also identify potential opportunities to align with other related engagement activities. This subsequent engagement will focus on defining community priorities for amenity contributions. It will also allow Administration to share information with communities about amenity contributions and the rezoning process.

### Corporate Outcomes and Performance Management

<b>Corporate Outcome: Edmonton has a globally competitive and entrepreneurial business climate</b>			
<b>Outcome</b>	<b>Measure</b>	<b>Result</b>	<b>Target</b>
Effective and Efficient Service Delivery: improve efficiency, consistency, and quality of service delivery	Percentage of stakeholders who can access accurate process and requirements information through <a href="http://www.edmonton.ca">www.edmonton.ca</a>	Not applicable at this time	100 percent by August 2018

### Risk Assessment

<b>Risk Element</b>	<b>Risk Description</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Risk Score (with current mitigations)</b>	<b>Current Mitigations</b>	<b>Potential Future Mitigations</b>
Customers/ Citizens; Political Influences	Pressure from stakeholders to deviate from policy, resulting in inconsistent application of rules, undermining policy goals	4	3	12	Clear communication about the process; establishing approach in Council policy; periodic policy review	Additional, periodic orientation for stakeholders

Project Management	Connection to other infill issues could create pressure to expand the scope of the policy work, causing delay	3	2	6	Clear scope definition in framework; internal collaboration with other infill project managers	
Public Perception	Public could perceive any incentive system as payment for zoning	2	1	2	Information sharing; Focus on transparency; Clear communication	

### Attachments

1. Amenity Contributions in Direct Control Provisions - A Framework for an Alternative System - Consultant Report

### Others Reviewing this Report

- T. Burge, Chief Financial Officer and Deputy City Manager, Financial and Corporate Services
- C. Campbell, Deputy City Manager, Communications and Engagement