

Amenity Contribution System Phase I Review

Proposed Framework

The City of Edmonton works collaboratively with the development industry and community associations to best enable positive growth in the City. As part of ongoing efforts to improve processes and work with its partners, the City of Edmonton initiated a review of the Amenity Contribution process. This review is not intended to propose a specific solution drawn from elsewhere but rather to support Industry and Community efforts to advance process improvements to collaboratively meet the needs of Edmontonians.

Amenity Contribution System Phase I Review: Proposed Framework

Introduction

The City has set out important goals to support a more compact, transit-oriented, liveable, healthy and sustainable urban form, as well as an annual target for new housing units in core, mature, and established neighbourhoods (25%). Promoting positive infill development is critical to achieving the City's goals, and to growing in an economical and sustainable way.

While infill projects are recognized for their value, the growth they bring also creates new challenges in the communities they develop. To offset the impacts upzonings can have, the City employs an amenity value contribution system.

The current system has provided valuable community contributions over many years. However, Council, industry, and the citizens involved in redevelopment have recognized that the process itself is in need of improvement.

Council Motion

Council asked City Administration to review the current direct control zoning process related to amenity contributions, and in the spring of this year, staff initiated this review with support from developers and community members who have participated in a working group. The Council motion directed:

“That Administration conduct further research and stakeholder engagement towards a formalized review procedure and incentive system to be applied to Direct Control Provision rezoning applications that add Floor Area Ratio in the city core and Transit Oriented Developments.”

In response to this motion, staff, industry and community representatives have worked together towards developing an improved process. The first phase of this process review has resulted in a proposed framework. This framework is intended as a “jumping off point” to enable further consultation and refinement. Developed collaboratively by the working group, this proposed

framework is presented to Council for consideration. If so directed, it will be used to develop a new process through additional stakeholder input.

Framework Summary

This framework describes a proposed alternative system for amenity contributions, including how the system will work and how decisions will be made. The framework can be summarized as a series of steps depicted in Figure 1. A more detailed description of the framework follows on pages 9-11 of this document.

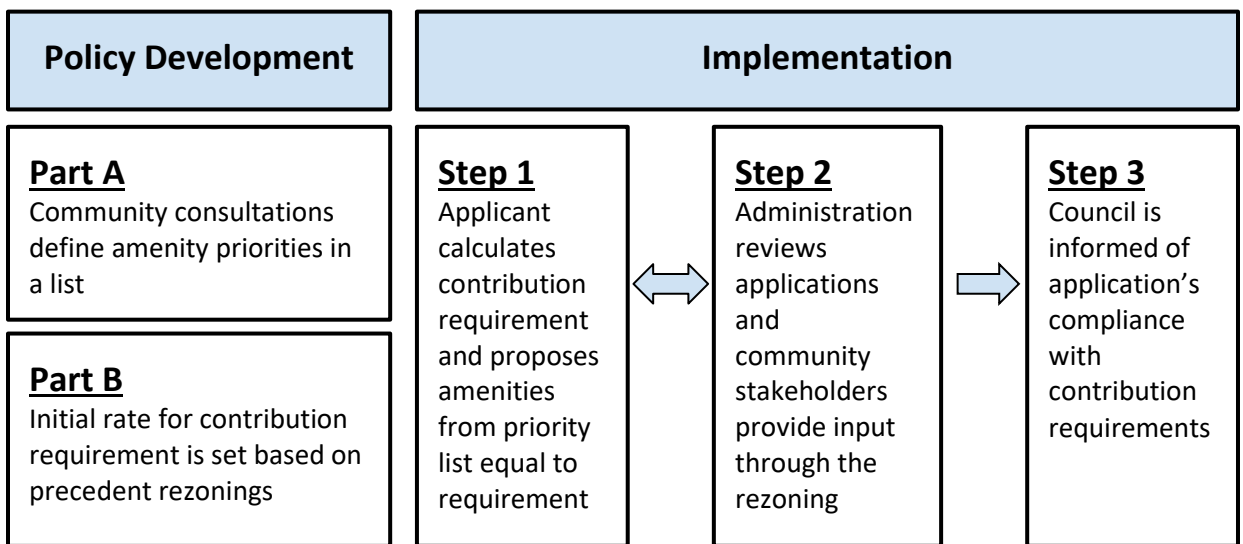


FIGURE 1

This document also provides information on the context for this work (pages 3-4), the needs of stakeholders (pages 4-5), best practices (5-7), key principles (8), and next steps (12-13). These next steps are particularly critical, as they describe what must be accomplished in order to implement the framework. The framework is therefore a foundation for additional, detailed work and consultation.

Purpose

This framework was developed to fulfill direction from Council to work with industry and community members to “develop an alternative approach for developer contributed public amenities secured through Direct Control Provision zoning”. The purpose of the framework is four-fold:

1. Establish key principles for an alternative approach,
2. Provide criteria for the type of development affected,
3. Describe how the alternative approach will work, and
4. Explain next steps required to enact the alternative approach.

The goal of the framework is to create an approach for amenity contributions that is predictable, transparent, fair, and flexible, and that addresses the shortcomings of the current approach.

Issue and Scope

An alternative approach for amenity contributions is needed because the current approach does not provide sufficient predictability or transparency for stakeholders, including developers, citizens, City staff, and City Council.

The current approach is a precedent-based practice that has evolved over some time without specific policy direction. City staff evaluate proposed amenities in direct control rezonings by comparing them with those secured in other Council-approved direct control zones. Staff then negotiate for comparable amenities to be included in the proposed rezoning.¹ Edmonton’s current approach was described in a 2013 report commissioned by the City of North Vancouver: “Consistent and predictable approaches have not yet been developed. Developer driven. ... There is no policy or direction on what is asked for or preferred by the City. ... Limited success.”²

The absence of Council direction or policy limits the predictability, transparency, and equitability of the current amenity contribution process.³ Without a well-defined contribution requirement, developers cannot factor amenities into their project budgets, and communities cannot

¹ Edmonton’s current approach is summarized in greater detail in the May 3, 2017 report to Urban Planning Committee CR_3883 - Increasing Floor Area Ratio in the City Core and Transit Oriented Developments through Direct Control Rezoning - Further Research and Stakeholder Engagement.

² *Coriolis Consulting Corp. & Toderian UrbanWORKS (2013), Review of the Density Bonus System in the City of North Vancouver: Final Report, 27.*

³ In 2015, Edmonton City Council did create policy C582, which provides direction on the provision of a specific amenity type provided through direct control rezonings. This policy has been successful, but is limited to affordable housing only.

anticipate the type of amenities that might accompany redevelopment. Without a transparent process, stakeholders cannot easily determine why certain amenities were chosen. A lack of consistent standards may also have resulted in disparities in amenities between projects.

It is important to emphasize that this review is focused on one element (amenity contributions) of a type of zoning (direct control provision) that occurs primarily in downtown and re-developing communities. Other processes and regulations also impact inner-city development; the fairness, efficiency, and impacts of such related processes should be the focus of subsequent process improvement initiatives and are out of scope for this work.

Methodology

To develop an alternative approach, City staff reached out to members of the local development industry who have recently completed one or more direct control upzonings to form a working group. After receiving direction from Urban Planning Committee, two members of the Edmonton Federation of Community Leagues Planning Committee were added to the working group to provide additional perspective. The working group also included members of City staff with experience reviewing major direct control rezonings.

With the help of third party expertise, this working group refined the problem with the current process, reviewed and considered systems used by other municipalities, and established key principles for a successful approach for amenity contributions. These principles, best practices and stakeholder input provided direction towards creating a made-in-Edmonton alternative that improves outcomes for all stakeholders, which is captured in this framework. This information was also presented to the Urban Development Institute and the Edmonton Federation of Community Leagues to gain additional insight.

Stakeholder Needs

The topic of amenity contributions in direct control rezonings affects stakeholders in diverse ways. The primary stakeholder groups involved include: the developers who propose these projects, the citizens who live near the development, City staff who review and negotiate their provisions, and City Council who makes land use decisions about proposed developments at Public Hearing.

The developer needs certainty about the City's expectations in order to plan and budget for their project. Determining requirements only after a developer has paid for land and submitted an application to rezone creates additional project risk and the possibility of delays. The developer also needs a consistent and equitable set of rules applied to all similar projects, so they are not at a disadvantage when purchasing or rezoning land.

Community members in redeveloping areas require a clear role in the process and the ability to advocate for their amenity priorities. They also require information about what can and cannot

be provided as an amenity contribution, and how much amenity might be provided so they can have meaningful input into the process.

City staff also need clear rules for amenities and values to reduce discretionary decision making and produce predictable outcomes. In the past, staff have been asked by Council whether amenities provided have been sufficient or excessive, and staff have been unable to answer with certainty. City staff need to be able to provide applicants and Council clear answers about how the system works and ensure equity across applications.

City Council will benefit from clear standards for amenity contributions when evaluating proposed rezonings at Public Hearing. This will simplify the decision making process, and provide a point of reference for consistent decision making.

Best Practices

Most large Canadian cities employ some form of public amenity contribution. However, the approaches are as varied and unique as the cities themselves. While the specifics vary, most Canadian cities that employ an amenity contribution system do so in conjunction with other mechanisms to support growth. Developer-contributed amenities are used to augment, not replace, primary funding methods. Importantly, obtaining amenities cannot be the reason to approve a rezoning. Instead, these are used to off-set the growth pressures on amenities in a growing community.

The names and details of these systems vary from city to city, but generally they can be divided into two categories: density bonusing and negotiated value capture.

Density bonusing refers to using standard zones with two or more density levels. More density is permitted when cash contributions (most commonly) or specific amenities are provided. These systems typically focus on providing a clear process for rezoning while ensuring some benefits are provided for communities proportionate to the amount of additional density provided.

Negotiated value capture refers to systems that calculate the change in land value caused by upzoning, and then negotiate for a percentage of that value to be provided as amenity contributions. In these cases City land experts negotiate with each developer to achieve a Council directed contribution level based on a pro-forma review. These systems typically focus on maximizing amenity contributions with case by case review of proposed development.

Many cities employ a variety of approaches with different base densities and different contribution levels for different areas or building typologies.

None of these approaches need discourage development and investment, as long as the system is well understood, predictable and transparent. When these criteria are met,

When properly designed and administered, these systems do not stall development activity or discourage investment. Where municipalities have applied transparent, predictable and consistent contribution systems, development tends to benefit because of the stable business climate.

Drawing from the experiences of Canadian cities, there are a number of key learnings that can be applied to the design or review of any amenity contribution system. These are:

- Good design, architecture, and building performance should not be considered amenities. These should be encouraged through other means, such as design guidelines and building codes.
- A consistent, transparent process, with standard requirements for contributions and minimal political involvement in determining the amount and type of amenities reduces the perception of “selling zoning” and conflict of interest.
- Trying to maximize public value at the outset of a program shocks land markets and stalls development.
- Consistent application of the rules helps land markets adjust to new systems. Exemptions or exceptions to the rules undermine the integrity of amenity contribution systems and create additional uncertainty in land markets.
- Systems should allow in-kind or cash contributions, at the developer’s discretion, to allow flexibility and different development business models to thrive.
- Amenities should benefit the communities receiving the development, and not be diverted for other purposes.
- Amenity contributions should not provide amenities that the community would have (or should have) received through capital budgets or pay for the basic maintenance of City infrastructure. Because they are irregular, amenities secured through redevelopment should not provide for the basic needs of the community.

Edmonton has required some form of amenity contributions for direct control rezonings for several years. However, Edmonton's process lacks the predictability and transparency of those cities who have a longer history of dealing with infill and brownfield redevelopment. All cities in Canada with established amenity contribution systems are designed to target the increase in land value that results when rezoning increases density. Where processes are transparent and rules consistently applied, the price of land reflects the existing zoning of the parcel.

One of the most critical differences between practices in other cities and Edmonton's current function relates to land lift.⁴ Where a city has a transparent and well understood system, land costs are held more closely to the value of the existing zone. This is because land buyers and sellers understand the amenity contributions that will be required if the property is rezoned. When a rezoning occurs, the value of the land increases, and the amenities provided by the developer are funded through the increase in land value.

Where a city has an opaque system, as does Edmonton, land buyers transact land based on expected rezoned values. In Edmonton, the price for land is inflated beyond what the zoning allows because of speculation; that is, the land speculator presumes the land will receive additional density through rezoning, and prices their land accordingly. This means that under the current process, amenities are paid for from the profit margin of a proposed development instead of from the increase in land value. Implementing a more predictable system will help change this outcome over time, as developers can predict the cost of amenities and factor that cost into their land purchase decisions.

Edmonton has been securing amenity contributions through direct control rezoning for many years. However, there has not previously been a clearly articulated, predictable system for these contributions. The focus of this framework is therefore not to affect the value of current contributions provided. It is to provide predictability, transparency, and equity to the provision of amenity contributions, while maintaining flexibility to allow for innovation.

⁴ Land lift refers to the increase in land value that results from rezoning when there is sufficient demand for development. The rezoning “lifts” the value of the land.

Framework Principles

The key principles identified by the working group to become the foundation of this framework are transparency, predictability, flexibility and contribution stability.

Transparency means that all stakeholders can understand how the system works, their respective roles, what is required, permitted, accepted, and how resources are used.

Transparency in these systems is critically important to prevent misunderstandings about the role of amenity contributions in the rezoning process. Clear rules and a transparent process will help community members, developers, City staff, and Council align their expectations and pursue good outcomes.

Predictability means that stakeholders can understand the impacts of amenity contributions for their project before applying to rezone, and in many cases, before making the decision to purchase land. This is crucial for making business decisions, like how much to pay for land, and how to integrate amenities into the development concept and project budget.

Flexibility is a key principle for *how* amenities are provided, not for the amount provided. As discussed above, the amounts must be predictable and consistent to support an equitable system. However, not all developers operate identically, and those developers who wish to provide cash contributions for amenities rather than in-kind benefits should be accommodated.

Flexibility also means that communities will have a say in what their priorities are. While in most cases, a limited list of amenities would apply across the city, a flexible system will be responsive to community priorities, so that communities receive amenities that improve the quality of life of current and new residents.

Contribution stability means that the required contribution amount will be based on what is currently contributed. Sudden changes in required contribution amounts can shock land markets and stall development. If the City were to implement a system that attempts to maximize the amount of contributions provided (or “value captured”), it would punish developers who have already paid for their land, and discourage land sales as the market adjusts to new rules, perhaps for some time.

An equitable and non-disruptive approach will establish the required contribution amount based on contributions in approved direct control provisions. This will maintain the financial obligations currently experienced in the Edmonton market, while transitioning to a transparent and predictable system.

Framework Outline

Based on the stakeholder needs, the learnings from other municipalities, and the key principles described above, the working group proposes the following framework for an amenity contribution system in direct control rezonings.

Criteria for requiring contributions

Direct control provision rezonings (DC1 and DC2) that increase density beyond what's permitted under the current zone or indicated in the Area Redevelopment Plan (where applicable) will be required to provide an amenity contribution. This will only be the case for redevelopment, and not for greenfield development. This reflects the current practice of amenity contributions and supports the project principle of contribution stability.

Direct control zones are used for a variety of purposes, including testing new land use concepts and preserving historic character. Where no additional density is achieved through rezoning, no additional value is created with which a developer could contribute to local amenities. The practice of not requiring amenity contributions in these cases will continue.

Where additional density is permitted through direct control rezoning, the amount of contribution required will be determined based on the amount of additional density achieved, on a per square meter basis. No other regulatory considerations, such as height, setbacks, and parking requirements will be considered when determining the amount of required amenity contribution. While changes to these elements may create additional value in some cases, basing contribution requirements on them may distort design decisions. The practice of basing contributions solely on density increases is consistent with the density bonusing processes utilized in almost all other Canadian cities.

Rate Based on Precedent

The amount of amenity contribution required will be a direct function of the additional density proposed, producing a stable rate. This rate will be published and examined at regular intervals, but will not change from project to project, or applicant to applicant.⁵

The initial rate will be determined by the average contribution made in direct control rezonings approved over the most recent development cycle between 2010 and 2017. This will ensure that the amenity contributions under the new framework are equivalent to the average contribution

⁵ The principal alternative to this approach is to calculate the value of the rezoning for each application through pro forma analysis. The working group considered this alternative and its examples and rejected it on the basis that it will disrupt land markets and development activity, without a commensurate increase in amenities. Edmonton land prices are not sufficiently constrained by current zoning to make this approach viable in the near term.

in recent years, providing stability to the market. This average contribution value of will become the rate used going forward.

Initially, there will be one rate for the entire city. Many cities have different rates across distinct areas of the city, reflecting differences in value for density. This approach adds complexity to the system, but may also generate more amenities. As the intent of this framework is to establish a predictable system, rather than to maximize or minimize value, the framework proposes a single, stable rate. Additional refinement based on type of development or geography can be explored in the future to improve the performance of the system.

A published rate will allow developers to accurately budget for the cost of amenity contributions in their project. Over the long run, if the rate is consistently applied, it should reduce land prices as developers adjust the maximum price they are willing to pay for land, after budgeting for their amenity contribution. A published rate will also benefit members of communities where rezoning is proposed by providing clear information on the amount of amenity contributions they can expect from a given project.

Amenity Lists

The content of new direct control zones, including amenity contributions, are proposed by applicants for review by City staff. To better align proposals with community priorities, the City will work with affected communities to develop a priority list of amenities. Developers will select amenities from this list to propose as part of their rezoning application, in the amount specified by the rate.

Initially, a single list will be used reflecting the amenities currently provided and initial community input. Through additional consultation with redeveloping communities, the City will create more specific lists to better match rezoning proposals to the communities where they are located. Most of Edmonton's neighbourhoods have not experienced any major direct control upzonings. However, certain areas of the city, such as Oliver, Downtown, and Strathcona experience them on a regular basis.

This Framework proposes that in order to develop a new policy, the City will work with community representatives to develop a proposed amenity list that reflects community priorities. Applicants will be encouraged to propose amenities for their projects drawn from these locally-identified priorities.

While the full list of amenities will be determined through additional consultation, the following principles will guide the creation of the list:

- Amenities create a positive experience for the community in which the development is located, not just for the public at large, and not just the residents of the development itself;
- Because the density granted is permanent, the public benefit should be permanent as well;
- Amenities will not include necessary upgrades that otherwise would be paid for through capital budgets; and
- Affordable housing will continue to be provided through policy C582⁶.

Valuation of Amenities

Each amenity on the list will have an agreed-upon valuation methodology published by the City. This provides the predictability required for the system to function properly. Each amenity proposed will be valued according to this methodology, allowing developers and communities to predict the cost and final outcomes of development. It will also allow City staff reviewing a rezoning proposal to equitably determine if an applicant will meet their amenity requirements.

The methodology for the amenities will be established with the help of appraisal staff or third party expertise as the list of amenities is developed.

Selection of Amenities

The applicant will propose amenities from the list of approved amenities. In cases where an applicant proposes an amenity that is not on the list of approved amenities, the valuation method will be proposed by the applicant and reviewed by City appraisal staff. In all cases, amenities must be in keeping with the principles described above.

The creation of amenity lists will not prevent members of the public from providing their input on rezoning applications (including the amenity contributions) to the City or the applicant during the rezoning process. Amenity priority lists will be used to facilitate productive engagement between applicants and communities, not limit it.

⁶ Policy C582 - Developer Sponsored Affordable Housing also applies in direct control upzonings to produce affordable housing. This work does not include affordable housing as part of its scope to avoid creating conflicts between affordable housing goals and other amenity contributions.

Related Issues

The goal of this review is to improve one specific process within the larger City regulatory system. These improvements will establish a clear and more predictable system in order to deliver immediate improvements to the existing amenity contribution process. Many stakeholders have correctly identified that related processes would also benefit from improvements.

Within the scope of the next phase of this review it is expected that further investigation will occur into such questions as “what public amenities are needed and appropriate?” and “how should the process respond to projects or varied scale?”.

Outside of the scope of this phase, there are related items that affect the fairness and predictability of infill development. These include the age of land use plans, the heightened costs of development within brownfield areas, and the equity of infrastructure provision. Additionally, some stakeholders would like to engage in discussions related to increasing the level of amenity contributions while others point out that the current contribution levels should be examined to see if lower rates are more appropriate for more “marginal sites.”

We believe these issues are important and need to be examined. However, the framework as drafted represents a series of tangible improvements that can be achieved in the short term. Undoubtedly, this process review will identify other City processes that would benefit from improvements. These issues will be identified for future examination but should not detract from the immediately achievable process change that is within scope of this review.

Next steps

Technical Valuation Work

In order to establish the rate for additional density and a method for setting the value of amenities, additional technical work is required. This work will involve the assistance of a qualified appraiser and/or construction estimator, and will build upon the work already done by City staff and the working group.

The work will review the density added and amenity contributions made in all recent DC1 and DC2 upzonings and estimate the average amenity contribution per additional square meter of buildable space. It will also establish methods for assigning value to amenities that may be proposed in the future. While this work is technical in nature, it also will involve work from stakeholders to clarify what is and could be considered an amenity, connecting it to the community and industry consultation work.

Community Consultation

Community consultation is required, in particular with members of core area communities that have seen the majority of direct control redevelopment. This consultation will serve to identify community priorities and develop a list of approved amenities. It will also provide community members information about the scope and scale of amenities they might see through redevelopment, and how public engagement happens in direct control rezonings.

Initial feedback from community representatives on the desired intent of the framework has been positive overall. However, community representatives have asked that future work examine the enforcement of direct control provisions and public access to amenity space.

Industry Consultation

Additional industry consultation is required to familiarize industry members with the process. This approach will be most effective if it is well understood by developers, consultants, and landowners, so comprehensive outreach to raise awareness is required. Industry consultation may also elicit additional information about how the proposed system will affect different types of development in different geographies.

As part of the work to date, industry representatives expressed interest in examining how the standard rate of the proposed framework will affect specific areas of the city and specific development types, particularly those projects in less active redeveloping areas. The work plan for this project can incorporate such an examination and will continue to dialogue with stakeholders related to the process details.

Internal Alignment

City of Edmonton departments will also require further consultation to create internal alignment for the administration of the new system. Because amenities will be listed, proposed, evaluated, received, and maintained, multiple City departments will be involved. Each of the relevant areas will be consulted to ensure the smooth functioning of the proposed system.

Policy Development

A Council-approved policy is necessary to establish the new system. The policy will identify the City's intent and how the system will function. An accompanying set of administrative procedures will describe to staff how to administer the system.