

Subject: Community Benefits Charge Strategy and By-law

Staff Report No. DS-040-24

Commission: Development Services Commission

Date: June 26, 2024

Recommendation:

- 1) That Council endorse the Community Benefits Charge Strategy; and**
- 2) That Council pass By-law 2024-086-FI to provide for the payment of Community Benefits Charges pursuant to Section 37 of the *Planning Act*; and**
- 3) That Council direct Staff to issue a Notice of Passage within 40 days of by-law passage.**

1. Purpose:

The purpose of this report is to provide Council with background, legislative context, and methodology on the creation of the Community Benefits Charge (CBC) Strategy and By-law. The report also identifies the type of development to which the CBC would apply and identifies the capital costs for which the CBC will be used. The report seeks Council endorsement of the CBC Strategy and the passage of the CBC By-law.

2. Executive Summary:

On June 1, 2022, Council directed staff to proceed with the preparation of a Community Benefits Charge (CBC) Strategy and By-law following the completion of the CBC Feasibility Assessment. A Community Benefits Charge applies to high density applications of more than 10 units and greater than 5 storeys in height. The CBC is intended to assist in the payment of the capital costs of facilities, services and matters required because of development or redevelopment. A detailed analysis of the projects that are eligible to be included in a CBC has been undertaken. This report summarizes the analysis and recommendations as part of the overall Community Benefits Charge Strategy and recommends that the Town charge the full 4% for applicable developments.

3. Background:

The COVID-19 Economic Recovery Act received Royal Assent on July 21, 2020. Schedule 17 of the Act amended the Planning Act with respect to the provisions of community benefits and parkland dedication. These amendments were proclaimed and came into effect on September 18, 2020.

Single-tier and lower-tier municipalities may adopt a by-law to impose a Community Benefits Charge (CBC) against land to pay for the capital costs of facilities, services and matters required because of development or redevelopment in the area to which the by-law applies. The capital costs included in a CBC may include:

- a) land for parks or other public recreational purposes in excess of lands conveyed or funded by cash-in-lieu of parkland payments under sections 42 and 51 of the Planning Act;
- b) capital costs for services under section 2(4) of the Development Charges Act (DCA) that are ineligible for recovery under a Development Charges (DC) By-law; and,
- c) capital costs for municipal services ineligible for inclusion in a DC By-law.

The Planning Act limits the imposition of the CBC to certain types of development. Under S.37(3) a CBC may not be imposed on long-term care or retirement homes, universities, colleges or Indigenous Institutes, not-for-profit housing, among other types of development. The CBC can only be imposed on residential development or redevelopment of at least 10 residential units and at least five storeys in height.

In 2022 the Town conducted a feasibility assessment to determine whether the Town should proceed with preparing and enacting a CBC By-law. Based on the conducted assessment, it was determined that the Town does have an increase in need for services eligible for consideration under a CBC. The assessment indicated that the Town could charge approximately \$1,516 per high-density apartment dwelling unit, residing in buildings of at least 5 storeys. On June 1, 2022 Town Council directed staff to proceed with the preparation of a CBC Strategy and By-law.

4. Analysis and Options:

4.1 Applicable Provincial Legislation

This section will provide an overview of the current and relevant policy environment that informs the development and implementation of the CBC Strategy and By-law.

More Homes for Everyone Act, 2022 – Bill 109

A new provision added to the Planning Act requires the municipality to review the Community Benefits Charge by-law and determine whether there is need for a revision and requires that municipalities shall consult with such persons and public bodies as appropriate.

More Homes Built Faster Act, 2022 – Bill 23

Allows a municipality, through the use of a CBC By-law, to enter into an agreement with a landowner for the provision of in-kind contributions.

Clarifies the application of the maximum prescribed percentage of the value of land for redevelopment.

Exempts affordable residential units, attainable residential units, inclusionary zoning residential units, and non-profit housing developments from the payment of CBC's.

Affordable Homes and Good Jobs Act, 2023 – Bill 134

This Bill amends the definition of Affordable Housing in the Development Charges Act (DCA) and Planning Act.

The new definition introduced an income-based test related to both rental and owned affordable residential units.

The percentage of average purchase price that is considered affordable is 90% related to owned residential units.

The average purchase price and rental prices along with the income-based tests are set out in the Residential Units Bulletin provided by the Minister of Municipal Affairs and Housing (released May 1, 2024). The threshold for Affordable Ownership Units in Stouffville will be \$513,800. The threshold for Affordable Rental Units will be as follows:

Bachelor unit: \$1,022
1-bedroom unit: \$1,511
2-bedroom unit: \$1,779
3 or more bedrooms unit: \$2,021

4.2 CBC Methodology

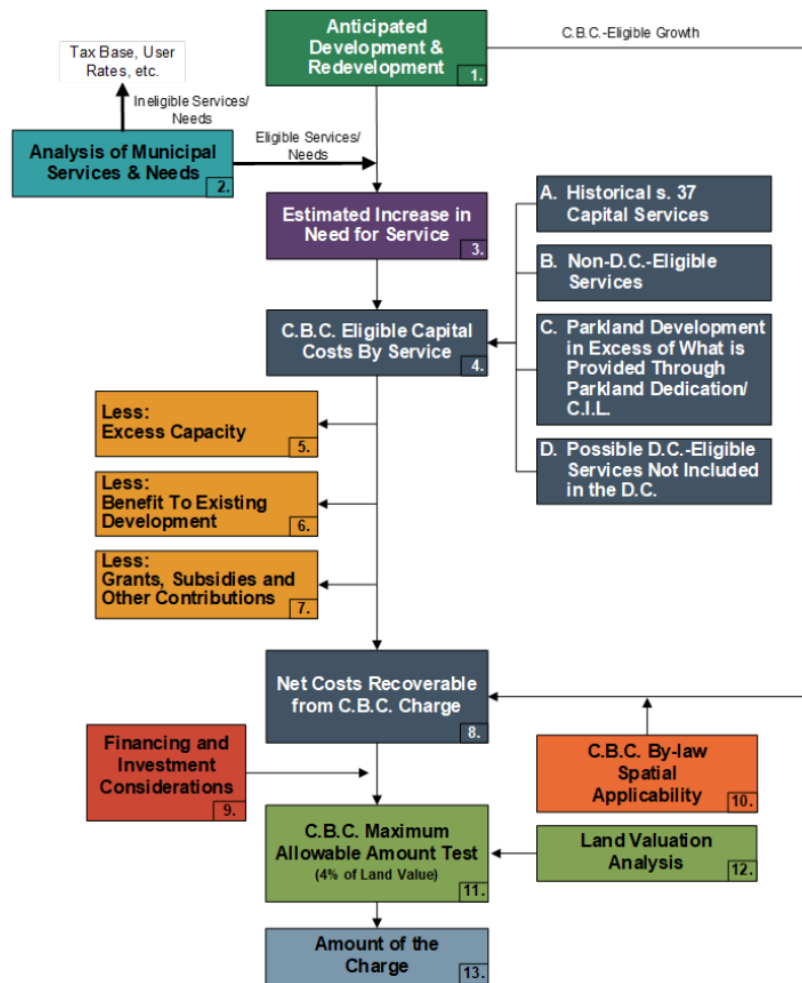
As part of the CBC Strategy, a municipality must identify the facilities, services and matters that will be funded with the charges. Ontario Regulation 509/20 specifies the methodology that must be followed in the Strategy, as shown in Figure 1 below. This includes:

1. Anticipated growth for CBC eligible Developments
2. Services considered for inclusion in the CBC Strategy
3. Recoverable costs under the CBC and the dollar value of the CBC

Further, the municipality must consult with such persons and public bodies as the municipality considers appropriate while preparing the Strategy. The consultation undertaken as part of the strategy is further described in Section 4.3 below.

Figure 1 – CBC Strategy Methodology

C.B.C. Strategy Methodology



1. Anticipated Growth for CBC Eligible Developments – This comprises an estimate of the anticipated amount, type, and location of development and redevelopment with respect to which community benefits charges will be imposed.

As identified in the CBC Strategy, the Town’s Census population is anticipated to reach approximately 68,490 by mid-2034, resulting in an increase of 14,860 persons, over the 2024 to 2034 forecast period. This population is anticipated to be housed in 5,462 residential units. Among those units, it was determined that 1,709 units would be CBC eligible (see Figure 2 below).

Figure 2 – Anticipated Growth in CBC Eligible Developments (10-year)

Development Location	Timing	Single & Semi-Detached	Multiples ¹	Apartments ²			Total Residential Units
				Units in C.B.C. Ineligible	Units in C.B.C. Eligible	Total Apartment Units	
Whitchurch-Stouffville	Mid-2024 - Mid-2034	2,122	1,331	300	1,709	2,009	5,462

Source: Derived from Durham Region Growth Management Strategy (ongoing) and the Region of Durham Region-Wide Development Charge Background Study (2022), by Watson & Associates Economists Ltd., 2022.

1 Includes townhouses and apartments in duplexes.

2 Includes accessory apartments, bachelor, 1-bedroom and 2-bedroom+ apartments.

Note: Numbers may not add to totals due to rounding.

2. Services Considered for Inclusion in the CBC Strategy – Potential capital costs and services were identified for possible inclusion in the CBC. Following such, Town staff undertook a prioritization review of those capital costs to determine the most appropriate for inclusion in the CBC.

Capital costs reviewed included both non-D.C-eligible services and DC-eligible services where the growth needs were identified in the 2023 DC study to be in excess of historical service standards. The CBC Feasibility Assessment determined there was an increase in the need for service eligible considerations through the CBC Strategy. The Town is currently undertaking a Parks Plan and new Parkland Dedication By-law. Therefore, parkland was not considered for the CBC Strategy. The following services were considered in the CBC Strategy:

- Parks and Recreation Services;
- Fire Protection Services;
- Library Services;
- Culture and Tourism Services;
- Growth-related studies;
- Growth related Information Technology Needs;
- Corporate Initiatives for Town Hall;
- Economic Development Strategies;
- Operations Centre and Streetscape Improvements; and
- Future CBC Strategies.

The prioritization of the capital projects resulted in the review and identification of the following for inclusion in the CBC:

- Future CBC Strategies; and
- Parks and Recreation Services, including amount in excess of what the DC historical level of services will provide for two projects:
 - Baker Hill North Park - Tovtel / Stouff Con 8 (2 tennis courts/splash pad)
 - New Leisure Centre.

3. CBC Calculations and Proposed Charges - To calculate the charge, the following steps were undertaken:

- 1) Anticipated Development: Determined over the 10-year growth forecast provides for 1,709 eligible high-density units (i.e. buildings containing a minimum of five storeys and a minimum of 10 residential units).
- 2) Section 2 of O. Reg. 509/20 potentially requires that three deductions be made to the capital costs estimates. These relate to excess capacity, benefit to existing development, and anticipated grants, subsidies, and other contributions.
- 3) Land Valuation: Estimated land values based on land appraisals provided by Town Staff. Based on the growth forecast, density assumptions, and land valuation assessment, the total land value for eligible high density was calculated to equal approximately \$53.2 million.
- 4) Identification of Services: The services identified for recovery include Parks and Recreation Services, and the Future CBC Strategies.
- 5) CBC Eligible Costs: Capital needs related to the identified services were provided through the Town's 2023 DC Background Study and in discussions with Town staff. Gross costs of the capital projects were assessed for the portion of the projects that would benefit the existing community vs. the future growth. The growth-related costs were allocated amongst anticipated development types to calculate the amount that is associated with the development of CBC eligible high-density residential dwelling units.
- 6) Maximum CBC: As per the Planning Act, the maximum a municipality can impose for a CBC is equal to 4% of the land value of a property, the day before building permit issuance.

Based on the total land value presented in Figure 3 below, the estimated potential CBC recovery for the Town equates to approximately \$2.13 million for the 10-year forecast period.

Figure 3 - Community Benefits Charge Calculation 2022 -2036

Services	Gross Cost	Benefit to Existing Deduction	Grants, Subsidies & Other Contributions	Net Growth-Related Costs	C.B.C. Eligible Costs
CBC Strategies	\$53,200	\$0	\$0	\$53,200	\$53,200
Parks and Lesiure	\$22,993,000	\$0	\$0	\$22,993,000	\$4,827,380
Total Potential Capital Program	\$23,046,200	\$0	\$0	\$23,046,200	\$4,880,580
Total Land Value					\$53,202,104
Calculated Percentage to Recover all Costs Identified					9.17%
Amount of Capital in Excess of the Maximum Eligible Percentage					\$2,752,496
Maximum Eligible Amount based on Total Land Valuation					\$2,128,084
Recommended C.B.C. (as percentage of land value)					4.00%

The Town has identified capital costs attributable to eligible high-density growth of approximately \$4.88 million which are in excess of the calculated maximum allowable amount of approximately \$2.13 million.

Based on the foregoing, CBC funding will not provide sufficient funding for all growth-related capital costs. This shortfall in funding is estimated based on the forecast development, land values estimate, growth-related capital needs attributable to CBC eligible high-density development, and the current legislated restriction of 4% of land value. The Strategy recommends imposing the maximum permissible under the Planning Act, i.e. 4% of land value. As such, the Town will have to consider the highest capital priorities to be funded with CBC revenues during the annual budget process. This section of the report includes two parts: research and proposed options / implementations.

4.3 Application and Calculation Process

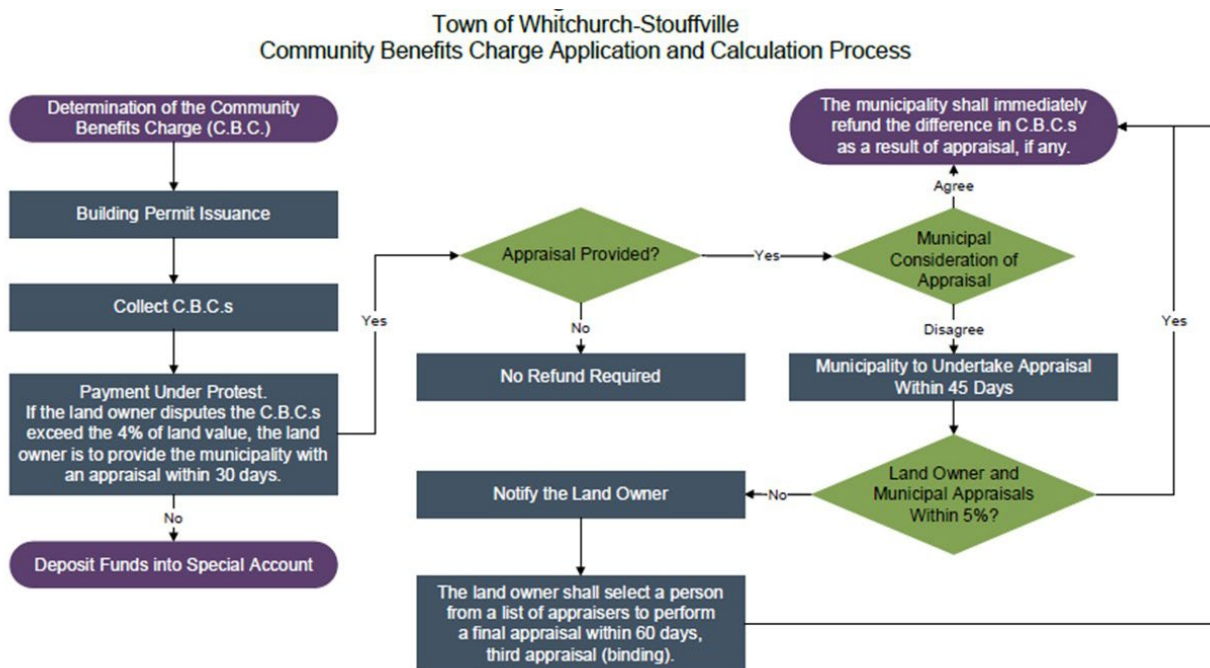
Figure 4 below provides an overview of the process for application of the CBC by-law and collection of C.B.C. funds.

Once the CBC by-law is in place, as development or redevelopment that meets the eligibility criteria proceeds (i.e. prior to issuance of a building permit), the municipality collects CBC’s based on the per unit charge as set out in the by-law and CBC strategy.

If the landowner is of the view that the amount of the CBC exceeds the prescribed value of 4% of their land value on the day before building permit issuance, the landowner may pay the charge under protest. In this circumstance there is an obligation of the landowner to provide an appraisal. If the municipality disputes the value of the land identified in the landowner’s appraisal, the municipality must also provide the owner with an appraisal within the prescribed time period.

If the Town agrees with the landowner’s appraised value, then the owner pays their CBC’s based on 4% of the land value to the Town and the funds will then be deposited into the special account.

Figure 4 - Community Benefits Charge Application and Calculation Process



All funds collected under the CBC by-law are to be deposited into a special account. Subsections 37 (45) to 37 (48) of the Planning Act outline the rules with respect to the special reserve fund account. The money in the special account may be invested in securities (as permitted under the Municipal Act) and the interest earnings shall be paid into the special account. In each year, a municipality shall spend or allocate at least 60 percent of the monies that are in the special account at the beginning of the year, and the municipality shall provide annual reports.

As per this CBC strategy, the growth-related services as identified from the anticipated capital needs required to service growth over the 10-year forecast period. However, other services may be considered by Council in the future and are subject to approval by resolution and inclusion in the annual budget process. Further, any additional services approved and funded from CBC revenue in the future will be reported on through an annual CBC reserve fund statement, which will form part of the Town’s overall year-end statements.

During the annual budget process, the use of CBC funding will be reviewed, and the capital costs associated with each eligible service and capital project will be confirmed and identified for approval of Council.

4.4 Consultation

To implement a CBC By-law, Section 37 (55) of the Planning Act requires that municipalities consult with such persons and public bodies as the municipality deems appropriate.

On May 22, 2024 a meeting was held with members of the Building Industry and Land Development Association (BILD) for the purposes of providing a presentation and opportunity to comment and ask questions regarding the CBC. BILD subsequently provided written comments. Below is a summary of these comments:

Comments received were generally technical in nature and included the following:

- The CBC By-law needs to incorporate section 37(32) of the Planning Act.
- The definition of Valuation Date (as defined by the Planning Act). should be added
- The resulting CBC should be the 4% at the time the permit is issued less all CBC's previously paid.
- Background information supporting the appraisal value of \$4.3 million per hectare.
- Confirmation that costs are not being double-counted.

Each of these comments have been addressed in the comment matrix (Attachment 2 to this report) and, where appropriate, incorporated into the final CBC By-law.

On June 5, 2024, the Town also held a Public Consultation meeting to inform Council and the public of the CBC Strategy and By-law which provided the opportunity for them to provide comments and ask questions. No members of the public provided oral comments or questions at the meeting. Prior to the meeting, notice was published on the Town's website and e-mails were sent to BILD, interested parties, and landowners that may be directly impacted by a CBC.

Due to the nature of the CBC By-law impacting only high-density developments, the Town also contacted landowners that have submitted pre-consultation applications within the last three years that met the high-density requirements (minimum 5 storeys and 10 units) of a Community Benefits Charge, to advise them of the proposed CBC Strategy and By-law. The Town did not receive any comments from those landowners or their representatives.

4.5 Next Steps

If the CBC By-law is passed by Council, Town staff will be responsible for its enforcement. Finance staff will collaborate with Development Services to implement the following action items:

- Create a webpage on the Town's website dedicated to CBC information, including access to the approved Council report, the Strategy, and the accompanying By-law.
- Develop a process for calculation and collection of CBCs.
- Develop a CBC guideline outlining how the 4% will be applied.

Option A (Recommended)

That Council endorse the Community Benefits Charge Strategy and pass By-law 2024-084-FI to provide for the payment of Community Benefits Charges for applicable high density development applications.

5. Financial Implications:

Once the Community Benefits Charge By-law is enacted, the Town will be able to begin collecting fees associated with applicable high density development applications and will benefit from the additional income generated from the CBC.

6. Alignment with Strategic Plan:

1. A Town that Grows
A Town that grows in support of complete communities
2. A Healthy and Greener Town
Increase Offerings and Opportunities for Active Living
3. An Engaging Town
Increase Community Engagement & Outreach

7. Attachments:

1. Community Benefits Charge Strategy
2. Comment Response Matrix

8. Related Reports:

May 18, 2022 – DS-023-22 Community Benefits Charges Feasibility Assessment
June 5, 2024 – DS-028-24 Community Benefits Charge Strategy and By-law

Author: Tim Hayward, Policy Planner II
Meaghan Craven, Manager, Planning Policy

For further information on this report, please contact the Department Head: Dwayne Tapp, Commissioner, Development Services at 905-640-1910 or 1-855-642-8697 ext. 2431 or via email at Dwayne.tapp@townofws.ca