



**City of Kingston
Report to Council
Report Number 23-183**

To: Mayor and Members of Council
From: Jennifer Campbell, Acting Commissioner, Community Services
Resource Staff: Tim Park, Director, Planning Services
Date of Meeting: July 11, 2023
Subject: Supplementary Report – Community Benefits Charge Strategy and By-Law

Council Strategic Plan Alignment:

Theme: Policies & by-laws

Goal: See above

Executive Summary:

In 2022, the City retained Watson & Associates Economists Ltd. (“Watson”) to prepare a Community Benefits Charge (“CBC”) Strategy for the City pursuant to the requirements of Section 37 of the *Planning Act* and Ontario Regulation 509/20. A draft CBC By-Law was prepared in-house in consultation with Legal Services and Watson. The draft CBC Strategy and By-Law were presented to members of the local development community on September 13, 2022 and at a non-statutory Public Meeting at Planning Committee on September 15, 2022. [Report Number PC-22-057](#) presented the final CBC Strategy and By-Law to the Planning Committee on October 13, 2022, together with staff responses to questions and comments received during the consultation period. Planning Committee recommended approval of the CBC Strategy and By-Law to Council.

The CBC Strategy and By-Law were scheduled to be considered by Council at the November 1, 2022, Council meeting. Prior to the November 1, 2022, Council meeting, the province introduced changes to Section 37 of the *Planning Act* through Bill 23, *More Homes Built Faster Act* (“Bill 23”). As a result of these changes, Council deferred approval of the CBC Strategy and By-Law

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and directed staff to bring back a revised CBC Strategy and By-Law that address the changes to the *Planning Act* under Bill 23.

This is a supplemental report to Report Number PC-22-057 to document the changes to the proposed CBC Strategy and By-Law from what was previously presented and includes the updated CBC Strategy and By-Law as Exhibits A and B, respectively. The recommendations in this report are formatted to replace all recommendations of Report Number PC-22-057. Clauses 1 and 2 of the recommendation have the effect of approving the CBC Strategy and the CBC By-Law, respectively. Clause 3 has the effect of exempting future development or redevelopment of the lands located at 40 Sir John A. Macdonald Boulevard, also known as Union Park, from the CBC By-Law in recognition of previous Council direction to enable the owner to undertake preservation and restoration of the former Prison for Women building, as discussed in [Report Number PC-22-057](#).

Recommendation:

That the Community Benefits Charge Strategy, prepared by Watson & Associates Economists Ltd. and dated September 20, 2022 (updated June 20, 2023), included as Exhibit A to Report Number 23-183, be approved; and

That the draft by-law attached as Exhibit B (A By-Law to Provide for the Payment of Community Benefits Charges Pursuant to Section 37 of the *Planning Act*) to Report Number 23-183 be presented to Council for all three readings; and

That future development or redevelopment of the property municipally known as 40 Sir John A. Macdonald Boulevard be exempt from the Community Benefits Charge By-Law in recognition of previous Council direction to enable the owner to undertake preservation and restoration of the former Prison for Women building.

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Authorizing Signatures:

p.p. ORIGINAL SIGNED BY COMMISSIONER

**Paige Agnew, Commissioner,
Community Services**

ORIGINAL SIGNED BY CHIEF

ADMINISTRATIVE OFFICER

**Lanie Hurdle, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Neil Carbone, Commissioner, Corporate Services	p.p.
David Fell, President & CEO, Utilities Kingston	Not required
Peter Huigenbos, Commissioner, Business, Environment & Projects	Not required
Brad Joyce, Commissioner, Transportation & Public Works	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required

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Options/Discussion:

In Spring 2022, Watson & Associates Economists Ltd. (“Watson”) were retained to prepare a Community Benefits Charge (“CBC”) Strategy for the City pursuant to the requirements of Section 37 of the *Planning Act* and Ontario Regulation 509/20 that were in effect at that time. A CBC Strategy dated September 20, 2022, and a CBC By-Law were scheduled to be presented to Council for approval on November 1, 2022. However, on October 25, 2022, the Province introduced new changes to Section 37 of the *Planning Act* through Bill 23, *More Homes Built Faster Act* (“Bill 23”). As result of these changes, Council deferred approval of the CBC Strategy and By-Law and passed the following motion directing staff to prepare a supplemental report with a revised CBC Strategy and By-Law that address the changes to Section 37 of the *Planning Act* under Bill 23:

Whereas Section 37 of the Planning Act provides that the Council of a municipality may by By-Law impose Community Benefits Charges against land to pay for the capital costs of facilities, services and matters required because of development or redevelopment; and

Whereas a Community Benefits Charge Strategy, dated September 20, 2022 and a draft Community Benefits Charges By-Law were presented to the Planning Committee on October 13, 2022 through Report Number PC-22-057; and

Whereas on October 25, 2022, the Province of Ontario announced proposed changes to the *Planning Act*, including those to Section 37, which will necessitate changes to the City’s proposed Community Benefits Charge Strategy and the draft Community Benefits Charges By-Law;

Therefore Be it Resolved That the recommendation of Report Number PC-22-057 be deferred until the changes to Section 37 of the *Planning Act* are in effect; and

That staff be directed to prepare a Supplemental Report to Council with a revised Community Benefits Charge Strategy and Community Benefits Charges By-Law that address the changes to the *Planning Act*.

This supplemental report has been prepared in accordance with the above-noted Council motion and documents the revisions to the proposed CBC Strategy and By-Law as a result of amendments to Section 37 of the *Planning Act*. The final CBC Strategy and By-Law are attached as Exhibits A and B, respectively. The CBC Strategy and By-Law will enable the City to secure an additional funding source for qualifying forms of development.

Legislative Background

Under the former Section 37 of the *Planning Act*, municipalities could negotiate the provision of facilities, services or other matters (i.e. Community Benefits) from development applications seeking an increase in height and/or density beyond that permitted by the zoning by-law. There

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were limited parameters in the *Planning Act* to guide these negotiations. Through Bill 197, the *COVID-19 Economic Recovery Act*, the Province replaced Section 37 with a new growth-related funding mechanism called a Community Benefits Charge. The new CBC tool allows municipalities, by by-law, to levy a charge against new development that is at least five storeys in height and that provides at least ten residential units, with limited exceptions, rather than only against development that was seeking an increase in height and/or density.

Prior to enacting a by-law to levy a CBC, the *Planning Act* requires municipalities to prepare a CBC Strategy. The CBC Strategy is required to document the increase in demand for additional facilities, services and matters as a result of qualifying development, document the projects that would be funded to mitigate these impacts and calculate a charge to recover eligible costs. As per the changes made by Bill 197, the amount of the CBC could not exceed 4% of the value of the land as of the valuation date, being the day before the first (or only) Building Permit is issued in respect of the development or redevelopment. This provision has been amended by Bill 23 as discussed below.

On October 25, 2022, the Ontario government tabled Bill 23 which received Royal Assent on November 28, 2022. Bill 23 included the following changes to Section 37 of the *Planning Act*:

- Bill 23 indicates that the maximum amount of CBCs in any particular case cannot exceed an amount equal to the prescribed percentage of the value of the land (4%), multiplied by a ratio of the floor area of the new development to the total floor area of all buildings and structures that will be on the land after the development or redevelopment. The intent of this provision is that the CBCs are collectible on the net new development only.
- Bill 23 also includes new statutory exemptions for affordable units, attainable units and inclusionary zoning units from the provision of CBCs. Where a development contains affordable, attainable or inclusionary zoning units, the CBC would be discounted based on the proportion of the floor area of all buildings that are part of the development or redevelopment minus the floor area of all affordable, attainable or inclusionary zoning units to the total floor area of all buildings that are part of the development or redevelopment. These amendments will come into effect on a day to be named by proclamation of the Lieutenant Governor.
- The municipality may now require an owner to enter into an agreement with the municipality that addresses the provision of in-kind contributions and that agreement may be registered on title to the land.

The transition provisions associated with the former Section 37 of the *Planning Act* expired on September 18, 2022. As such, the municipality cannot collect CBCs until the City enacts a new CBC By-Law. Existing Community Benefits Agreements under the former Section 37(1) of the *Planning Act* remain in effect.

Revisions to the CBC Strategy

The CBC Strategy completed by Watson provides a summary of the growth forecast of anticipated development, background on the calculation of the proposed CBCs, the potential

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revenue that could be collected, and the identification of services that the revenue could be used to support over a 14-year period. As outlined in [Report Number PC-22-057](#), the CBC Strategy is required to identify eligible capital costs and cannot include costs already captured through development charges. Bill 23 introduced amendments to the *Development Charges Act*, however a number of those amendments have not received proclamation and are therefore not yet in effect. It is anticipated that changes may be required in the future to capture costs that formerly would have been captured through development charges. The CBC Strategy has been updated with a summary of the changes made to Section 37 of the *Planning Act* by Bill 23 as discussed in the previous section. The revisions do not affect the eligible capital costs, eligible forms of development or the CBC calculation from what was presented at the October 13, 2022 Planning Committee meeting.

Staff note that the residential growth forecast in the CBC Strategy has been derived by Watson based on the Population, Housing and Employment Growth Forecast, 2016 to 2046, Final Report, completed in 2019, the Development Charges Background Study completed in 2019, past Census data, building permit data and residential supply opportunities, as these resources are the best available information at this time. In early 2023, Planning Services initiated an update to the Population, Housing and Employment Growth Forecast study, with a planning horizon of 2051. This study is anticipated to be completed and presented to Council in spring 2024. It is anticipated that an update to the residential growth forecast in the CBC Strategy will be required upon the completion of the Population, Housing and Employment Growth Forecast in 2024.

Revisions to the CBC By-Law

As noted previously, Bill 23 made a number of changes to Section 37 of the *Planning Act*, however some of the changes have not yet been proclaimed. The modifications that have not yet been proclaimed are not yet in effect. Before presenting this report to Council, staff had been awaiting the proclamation of the changes, however the province has not given any indication on the timing. Staff did not want to further delay the CBC By-Law and have taken the un-proclaimed provisions into consideration in updating the draft CBC By-Law such that certain provisions in the by-law would come into effect concurrently with proclamation.

The revisions to the draft CBC By-Law are generally considered minor in nature and can be summarized as follows:

- **Affordable Units:** The proposed CBC By-Law has been updated to align with the new definition of 'Affordable Residential Unit' that is referred to in Section 37 of the *Planning Act*. The originally proposed CBC By-Law already exempted affordable residential units from the payment of CBCs, and this exemption continues to be maintained.
- **Attainable Units:** A provision has been added to the proposed CBC By-Law to exempt attainable units from CBCs. This change will come into effect at the same time as proclamation of the associated provisions in the *Planning Act*.

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- Agreement for in-kind contributions: The draft CBC By-Law had previously indicated that the Site Plan Control agreement will be used to secure in-kind contributions. This provision has been updated in the draft CBC By-Law to remove the reference to the Site Plan Control agreement now that the *Planning Act* allows agreements under Section 37 to be registered on title to address the provision of in-kind contributions.
- Transition: The draft CBC By-Law has been revised to indicate that where an increase in the previously approved number of residential units is proposed on lands that are subject to a by-law described in the repealed subsection 37(1) of the *Planning Act*, the amount of CBCs payable to the City under the new CBC By-Law would be based on the number of net new units. This would ensure that CBCs are being paid for incremental development only, as intended by the changes made to Section 37 of the *Planning Act* by Bill 23.

In addition to the above-noted changes, the organization and formatting of the proposed CBC By-Law has been updated from what was included in Report PC-22-057 for consistency with the City's new by-law template. These formatting and organizational changes do not affect the intent or applicability of the by-law.

Existing Policy/By-Law:

Planning Act

Ontario Regulation 509/20, Community Benefits Charges and Parkland

Development Charges Act

Notice Provisions:

Upon Council approval of the CBC By-Law, a Notice of Passing will be provided in accordance with the provisions of the *Planning Act*.

Accessibility Considerations:

None

Financial Considerations:

The funds for the preparation of the CBC Strategy and CBC By-Law were allocated in the 2022 Capital Budget.

The proposed CBC By-Law will allow for the collection of additional revenue estimated at \$3.2 million, over the previously mentioned 14 years, which can be used to support a number of identified capital projects.

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Exhibits Attached:

Exhibit A Community Benefits Charge Strategy, Watson & Associates Economists Ltd.,
dated September 20, 2022 (updated June 20, 2023)

Exhibit B A By-Law to Provide for the Payment of Community Benefits Charges Pursuant to
Section 37 of the *Planning Act*



Community Benefits Charge Strategy

City of Kingston

Final

September 20, 2022
(updated June 20, 2023)

Watson & Associates Economists Ltd.
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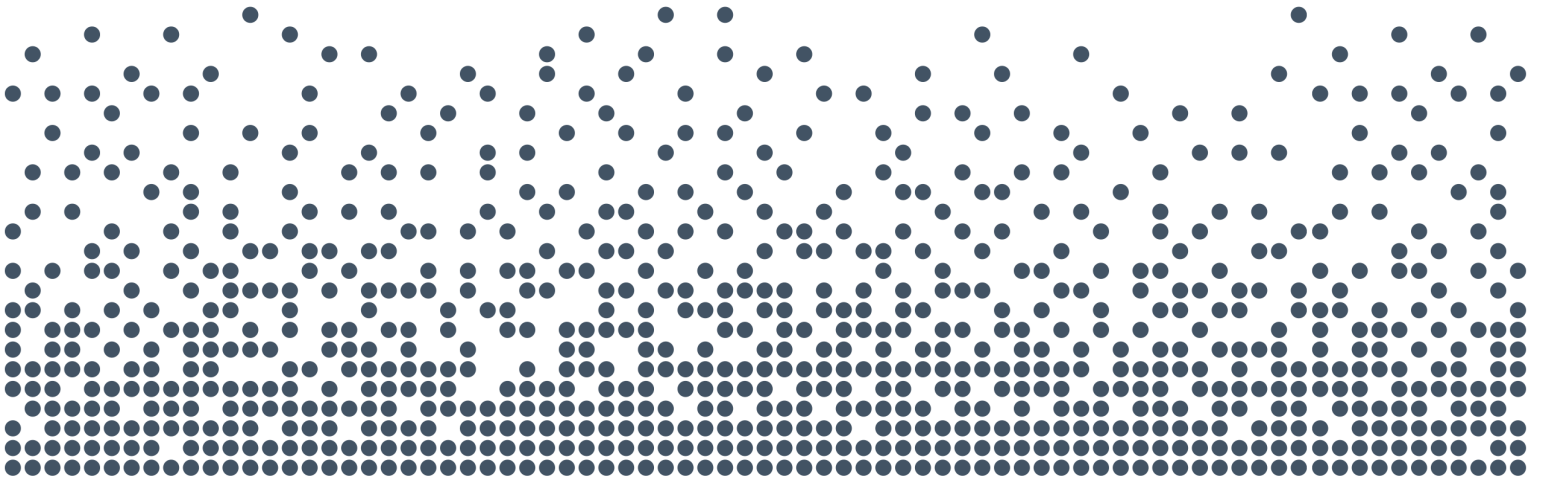
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List of Acronyms and Abbreviations

Acronym	Full Description of Acronym
C.B.C.	Community Benefits Charge
C.I.L.	Cash-in-lieu
D.C.	Development charge
D.C.A.	<i>Development Charges Act, 1997</i> , as amended
E.V.	Electric Vehicle
M.C.R.	Municipal Comprehensive Review
N.F.P.O.W.	No fixed place of work
O.L.T.	Ontario Land Tribunal
O. Reg.	Ontario Regulation
P.P.U.	Persons per unit
sq.ft.	square foot
sq.m.	square metre



Report



Chapter 1

Introduction



1. Introduction

1.1 Purpose of this Document

The City of Kingston (City) retained Watson & Associates Economists Ltd. (Watson), to prepare a Community Benefits Charge (C.B.C.) Strategy and to assist with the by-law adoption process. Watson worked with City staff preparing the C.B.C. Strategy and policy recommendations contained herein.

The Strategy has been prepared pursuant to the requirements of Section 37 of the *Planning Act*. Accordingly, the Strategy recommends the imposition of a C.B.C. and associated policies for administration of the by-law by the City. The C.B.C. Strategy, and proposed by-law, will be distributed to members of the public to provide interested parties the background information on the legislation, the recommendations, and the basis for these recommendations.

This Strategy has been prepared, in the first instance, to meet the statutory requirements under the *Planning Act*, as summarized in Chapter 3. In addition, the Strategy is designed to set out sufficient background on the calculation of the charges, and the policies underlying the proposed by-law, to make the exercise understandable to those involved. Chapters 4 and 5 outline the determination of the C.B.C. eligible capital costs and calculation of the charges. The Strategy also provides the rules for administering the by-law, as contained in Chapter 6 herein, the proposed by-law will be provided under separate cover. Finally, the report addresses post-adoption implementation requirements (Chapter 7) which are critical to the successful application of the new by-law.

The chapters in the Strategy are supported by Appendices containing the data required to explain and substantiate the calculation of the charges.

Since the completion of the Strategy in September 2022, the Province has passed further legislation amending Section 37 of the *Planning Act*. The Strategy has been amended to reflect these legislative changes.



1.2 Legislative Context

1.2.1 Bill 197 – COVID-19 Economic Recovery Act, 2020

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. Municipalities with agreements for community benefits have two years after the date of proclamation (i.e., September 18, 2022) to transition to the new rules under s.37 of the *Planning Act*. Eligible municipalities also have the ability to impose a C.B.C. under this authority.

Single-tier and lower-tier municipalities may adopt a by-law to impose a C.B.C. 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 C.B.C. may include:

- 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*;
- capital costs for services under subsection 2 (4) of the D.C.A. that are ineligible for recovery under a D.C. by-law; and
- capital costs for municipal services ineligible for inclusion in a D.C. by-law.

There are restrictions on the application of the charges. A C.B.C. may be imposed only with respect to development or redevelopment that requires:

- the passing of a zoning by-law or of an amendment to a zoning by-law under section 34;
- the approval of a minor variance under section 45;
- a conveyance of land to which a by-law passed under subsection 50 (7) applies;
- the approval of a plan of subdivision under section 51;
- a consent under section 53;
- the approval of a description under section 9 of the *Condominium Act, 1998*; or
- the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.



As discussed later, the regulations limit the charge relative to the value of land at the time of building permit issuance thus, imposing the charge at the time of development requiring the issuance of a building permit would be prudent.

The *Planning Act* limits the imposition of the C.B.C. to certain types of development. Under s.37(3) a C.B.C. may not be imposed with respect to:

- development or redevelopment of fewer than 10 residential units, and in respect of buildings or structures with fewer than five storeys;
- a building or structure intended for use as a long-term care home;
- a building or structure intended for use as a retirement home;
- a building or structure intended for use by a university, college, or an Indigenous Institute;
- a building or structure intended for use as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion;
- a building or structure intended for use as a hospice to provide end-of-life care; or
- not-for-profit housing.

Before adopting a C.B.C. by-law a municipality must prepare a C.B.C. Strategy that identifies the facilities, services and matters that will be funded with the charges. The municipality must consult with such persons and public bodies as the municipality considers appropriate while preparing the Strategy. Furthermore, Ontario Regulation 509/20 specifies the methodology that must be followed in the Strategy. This includes:

1. An estimate of the anticipated amount, type and location of development and redevelopment with respect to which community benefits charges will be imposed;
2. Estimates of the increase in the need for facilities, services and matters attributable to the anticipated development and redevelopment to which the community benefits charge by-law would relate;
3. For the facilities, services and matters included above an identification of excess capacity and estimates of the benefit to existing development;
4. Estimates of the capital costs necessary to provide the facilities, services and matters; and



5. Identification of any capital grants, subsidies and other contributions made to the municipality or that the council of the municipality anticipates will be made in respect of the capital costs.

Once the by-law is passed the municipality must give notice of passage and the by-law may be appealed to the Ontario Land Tribunal (O.L.T.) within 40 days of by-law passage.

The amount of the charge cannot exceed an amount equal to the prescribed percentage of the value of the land on the date of building permit issuance¹. At present, the prescribed value is set by regulation at 4% of land value. Moreover, if the landowner is of the view that the amount of the C.B.C. exceeds the prescribed value, the landowner may pay the charge under protest. In this circumstance there is an obligation of the landowner and municipality to provide appraisals, and for the municipality to maintain a registry of at least three land appraisers.

A municipality may allow the landowner to provide in-kind contributions towards the facilities, services or matters in lieu of paying a C.B.C.

Revenue collected under a C.B.C. by-law must be maintained in a special account and used for the purposes that the charge was imposed. A municipality must report on the activity of the special account annually.

1.2.2 Bill 109 – More Homes for Everyone Act, 2022

The *More Homes for Everyone Act, 2022* received Royal Assent on April 14, 2022. Schedule 5 of the Act amends the *Planning Act* with respect to C.B.C. by-laws. New subsections 37 (54) to (59) require that Council must pass a resolution on whether a revision to the C.B.C. by-law is needed at least every five years from the date the by-law was first passed.

The municipality must review the 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. The municipality must give notice of the passing of the resolution within 20 days on the website of the municipality.

¹ Subsequently amended by the *More Homes Built Faster Act* (summarized below) adjusting the application for an existing building where redevelopment occurs.



If Council does not pass a resolution within the five years, the by-law is deemed to expire.

1.2.3 Bill 23 – More Homes Built Faster Act, 2022

The Province introduced the *More Homes Built Faster Act* with the overall objective to increase housing supply and provide attainable housing options. The Province's plan is to address the housing crisis by targeting the creation of 1.5 million homes over the period to 2031. To implement this plan, the Act introduced several changes to the *Planning Act*, along with nine other Acts including the *Development Charges Act* (D.C.A.) and the *Conservation Authorities Act*, which seek to increase the supply of housing.

The *More Homes Built Faster Act, 2022* received Royal Assent on November 28, 2022. Schedule 9 of the Act amends the *Planning Act* with respect to C.B.C. by-laws as follows:

- Subsection 37 (7.1) allows a municipality to enter into an agreement with a landowner for the provision of in-kind contributions. It also allows for this agreement to be registered on title of the land to which the charge applies (s.s.37 (7.2)).
- Subsections 37 (32), as amended, clarifies the application of the maximum prescribed percentage of the value of land for redevelopment. Where development or redevelopment is occurring on a parcel of land with an existing building or structure, the maximum C.B.C. that could be imposed is to be calculated based on the incremental development only.
- Subsection 37 (32.1) exempts affordable residential units, attainable residential units, and inclusionary zoning residential units from the payment of C.B.C.s. This subsection of the *Planning Act* will come into effect on the date of proclamation. The definitions for these development types are provided as follows:
 - Affordable Residential Units (Rented): Where rent is no more than 80% of the average market rent as defined by a new bulletin published by the Ministry of Municipal Affairs and Housing.
 - Affordable Residential Units (Ownership): Where the price of the unit is no more than 80% of the average purchase price as defined by a new bulletin published by the Ministry of Municipal Affairs and Housing.



- Attainable Residential Units: Excludes affordable units and rental units; will be defined as prescribed development or class of development and sold to a person who is at “arm’s length” from the seller.
- Inclusionary Zoning Units: Affordable housing units required under inclusionary zoning by-laws.

1.3 Current Policies

Historically, the City has imposed charges related to community benefits under the prior *Planning Act* section 37 provisions. Community benefits imposed under the previous provisions are intended to recover capital costs for such things as public art, a study related to streetscape improvements along Queen Street, and “Green Street” treatment of certain streets in Williamsville.

1.4 Summary of the Process

Prior to passing a C.B.C. by-law, the *Planning Act*, section 37 (10) requires the City to consult with the public and such persons and public bodies as the City considers appropriate. As such, a consultation meeting with the development community was held on September 13, 2022, and a public meeting was held on September 15, 2022. The intent of these meetings was to receive feedback on the strategy and to answer any questions regarding the strategy’s purpose, approach, and proposed C.B.C. by-law. The feedback received informed the final C.B.C. Strategy and By-Law which was provided to the Planning Committee in October 2022, and subsequently updated to address amendments to Section 37 of the *Planning Act* resulting from the *More Homes Built Faster Act* for Council consideration in July 2023.

Figure 1-1 provides an outline of the schedule to be followed with respect to the C.B.C. strategy and by-law adoption and implementation process.



Figure 1-1
City of Kingston
Schedule of Key Dates in the C.B.C. Strategy Process

Item	Date
1. Data collection, land valuation analysis, growth forecast development, capital needs assessment, staff review, C.B.C. calculations and policy work.	March 2022 to August 2022
2. Release of the C.B.C. Strategy and draft by-law	September 9, 2022
3. Public Meeting to present the C.B.C. Strategy and proposed by-law and receive feedback	September 15, 2022
4. Recommendation Report to Planning Committee	October 13, 2022
5. Introduction of Bill 23 (<i>More Homes Built Faster Act</i>)	October 25, 2023
6. Meeting of Council to present the C.B.C. Strategy and proposed by-law	July 11, 2023
7. Council considers adoption of C.B.C. strategy and passage of by-law	July 11, 2023
8. Notice given of by-law passage	No later than 20 days after passage
9. Last day for by-law appeal	40 days after passage



Chapter 2

Anticipated Development in the City of Kingston



2. Anticipated Development

2.1 Requirement of the Act

The growth forecast contained in this chapter (with supplemental tables in Appendix A) provides for the anticipated development for which the City will be required to provide services over a 2022 to 2036 time horizon.

Chapter 3 provides the methodology for calculating a C.B.C. as per the *Planning Act*. Figure 3-1 presents this methodology schematically. It is noted in the first box of the schematic that in order to determine the C.B.C. that may be imposed, it is a requirement of section 37 (9) of the *Planning Act* and O. Reg. 509/20 that “the anticipated amount, type and location of development and redevelopment, for which a C.B.C. can be imposed, must be estimated.”

2.2 Basis of Population, Household and Employment Forecast

The C.B.C. growth forecast has been derived by Watson. In preparing the growth forecast, the following information sources were consulted to assess the residential and non-residential development potential for the City over the forecast period, including:

- City of Kingston Population, Housing and Employment Growth Forecast, 2016 to 2046, Final Report, March 5, 2019, Watson & Associates Economists Ltd.;
- City of Kingston Development Charges Background Study, June 13, 2019, Watson & Associates Economists Ltd.;
- 2006, 2011, 2016 and 2021 population and household Census data;
- 2006, 2011 and 2016 employment Census data;
- Historical residential building permit data over the 2012 to 2021 period;
- Residential supply opportunities as identified by City staff; and
- Discussions with municipal staff regarding anticipated residential development in the City.



2.3 Summary of Growth Forecast

A detailed analysis of the residential and non-residential growth forecasts is provided in Appendix A and the methodology employed is illustrated in Figure 2-1. The discussion provided herein summarizes the anticipated growth for the City and describes the basis for the forecast. The results of the residential growth forecast analysis are summarized in Table 2-1 below, and Schedule 1 in Appendix A.

As identified in Table 2-1 and Schedule 1, the City's Census population is anticipated to reach approximately 149,680 by mid-2036, resulting in an increase of 15,020 persons, over the 2022 to 2036 forecast period.^{[1],[2]}

Provided below is a summary of the key assumptions and findings regarding the City's C.B.C. growth forecast:

1. Unit Mix (Appendix A – Schedules 1, 5 and 6)
 - The housing unit mix for the City was derived from a detailed review of the City of Kingston historical development activity (as per Schedule 6), as well as active residential development applications (as per Schedule 5) and discussions with City staff regarding anticipated development trends for Kingston.
 - Based on the above indicators, the 2022 to 2036 household growth forecast for the City is comprised of a unit mix of 36% low density units (single detached and semi-detached), 12% medium density (multiples except apartments) and 52% high density (accessory units, bachelor, 1-bedroom and 2+ bedroom apartments) units.

^[1] The population figures used in the calculation of the 2022 C.B.C. exclude the net Census undercount, which is estimated at approximately 3.1%.

^[2] The City's population including off-campus students not captured by the Statistics Canada Census is forecast to reach approximately 172,020 by mid-2036. This represents an increase of approximately 18,380 persons between 2022 and 2036.



Figure 2-1
Approach to Population and Housing Forecast

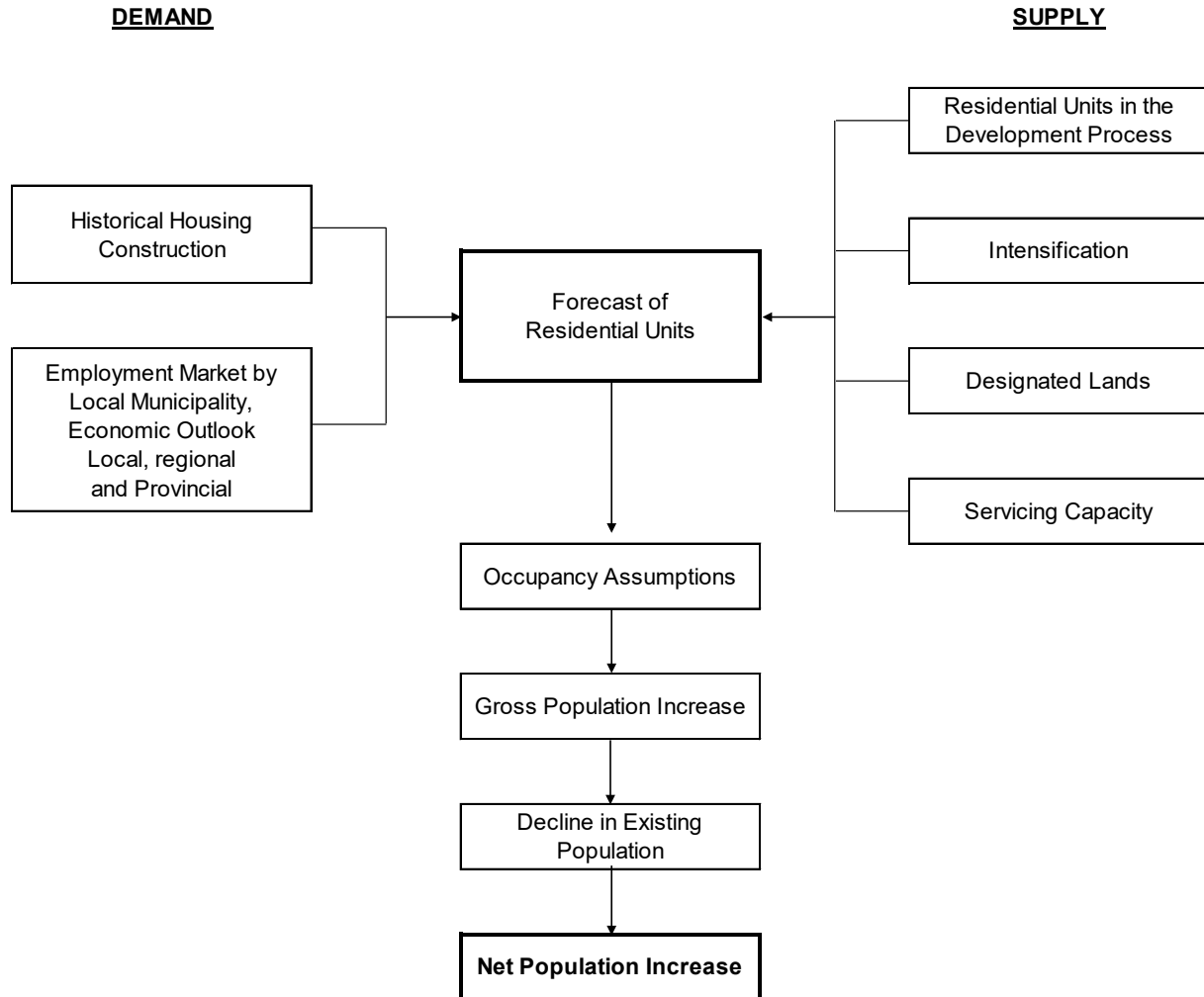




Table 2-1
City of Kingston
Residential Growth Forecast Summary

	Year	Population (Including Census Undercount) ^[1]	Excluding Census Undercount						Housing Units								Person Per Unit (P.P.U.): Total Population/ Total Households
			Population	Institutional Population	Population Excluding Institutional Population	Student Population	Off-Campus Student Population ^[2]	Total Population and Off-Campus Student Population	Singles & Semi-Detached	Multiple Dwellings ^[3]	Apartments ^[4]	Other	Total Households	Off-Campus Student Households	Total Households Including Off-Campus Student Housing	Equivalent Institutional Households	
Historical	Mid 2016	127,690	123,798	3,578	120,220	23,580	16,700	140,498	30,585	5,680	16,955	295	53,515	4,050	57,565	3,253	2,313
	Mid 2021	136,650	132,485	3,847	128,638	26,239	18,729	151,214	32,045	6,335	19,155	300	57,835	4,913	62,748	3,497	2,291
Forecast	Mid 2022	138,890	134,656	3,913	130,743	26,578	18,986	153,642	32,304	6,396	19,926	300	58,926	5,022	63,948	3,557	2,285
	Mid 2036	154,380	149,675	4,326	145,349	31,038	22,342	172,017	34,725	7,178	23,455	300	65,658	6,451	72,109	3,933	2,280
Incremental	Mid 2022 - Mid 2036	15,490	15,019	413	14,606	4,460	3,356	18,375	2,421	782	3,529	0	6,732	1,429	8,161	375	2,231

[1] Census undercount estimated at approximately 3.1%.

[2] Represents off campus student population not captured by Statistics Canada Census. In the City of Kingston Population, Housing and Employment Growth Forecast, approximately 71% of the student population not captured by Statistics Canada Census are anticipated to live off-campus.

[3] Includes townhouses and apartments in duplexes.

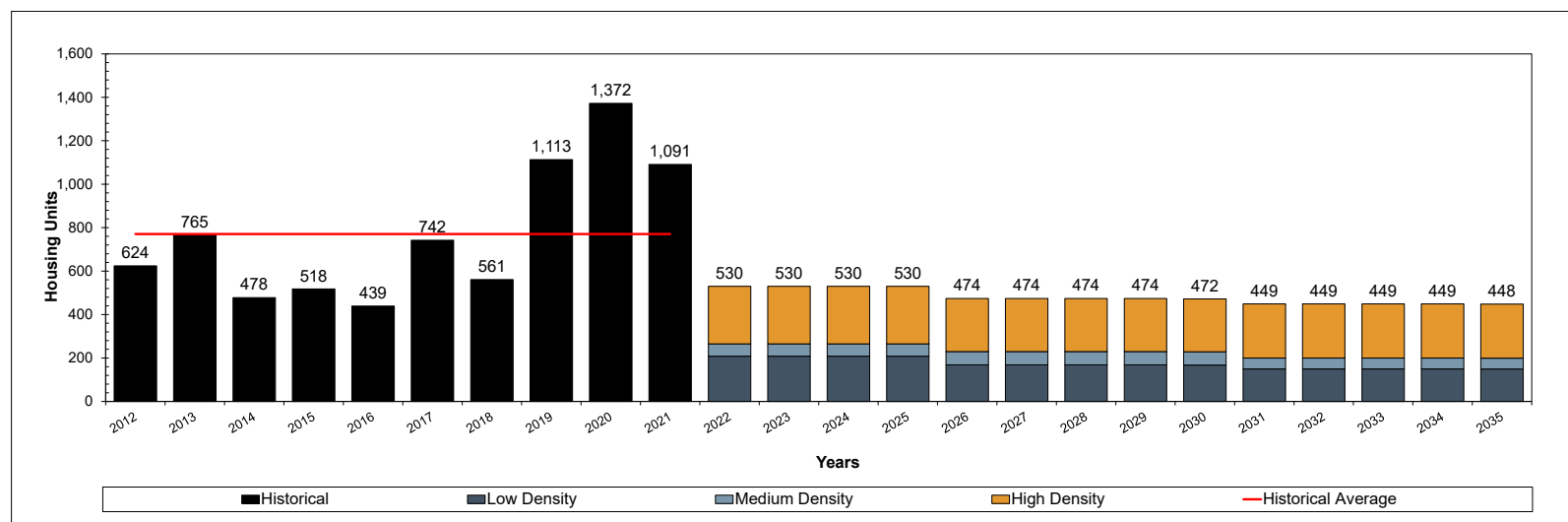
[4] Includes bachelor, 1-bedroom, and 2-bedroom+ apartment units.

Note: Population including the Census undercount has been rounded.

Source: Watson & Associates Economists Ltd.



Figure 2-2
City of Kingston
Annual Housing Forecast^[1]



^[1] Growth forecast represents calendar year.

Source: Historical housing activity (2012-2021) based on City of Kingston building permit data, by Watson & Associates Economists Ltd.



2. C.B.C. Eligible Units

- Subsection 37 (4) of the *Planning Act* establishes the criteria for a development to be C.B.C. eligible. A C.B.C. may be imposed if:
 - Development of a proposed building or structure has five or more storeys at or above ground and has 10 or more residential units;
 - Redevelopment of an existing building or structure that will have 5 or more storeys at or above ground after redevelopment and proposes to add 10 or more residential units to an existing building or structure; or
 - Such types of development or redevelopment as prescribed. 2020, c. 18, Sched. 17, section 1.
- The C.B.C. eligible unit forecast is derived based on the established criteria above and a detailed review of historical Census housing trends, historical development activity (as per Schedule 6), active residential development applications (as per Schedule 5) and discussions with City staff regarding anticipated C.B.C. eligible developments.
- Based on the above indicators, the City is forecasted to accommodate 3,647 C.B.C. eligible household units over the 2022 to 2036 forecast period. This translates to 74% of all high-density units, including accessory units, being C.B.C. eligible from 2022 to 2036.

3. C.B.C. Eligible Residential Development (Appendix A – Schedule 2)

- Schedule 2 summarizes the anticipated amount, and type of C.B.C. eligible development for the City.
- In accordance with forecast demand and available land supply, the amount and percentage of forecast C.B.C. eligible housing growth between 2022 and 2036 is summarized in Table 2-2.



Table 2-2
City of Kingston
Residential High-Density Growth Summary

Development Location	High-Density Housing Growth, 2022 to 2036 ^[1]	C.B.C. Eligible Share (%)	C.B.C. Eligible Housing Growth, 2022 to 2036
City-Wide Total	4,958	74%	3,647

^[1] High density includes accessory apartments, multi-unit developments with bachelor, 1-bedroom, and 2-bedroom+ units.

Source: Watson & Associates Economists Ltd.

4. Planning Period

- For the purpose of this study, a 2022 to 2036 planning horizon has been assumed which aligns with the City’s capital budget.

5. Population in New Units (Appendix A – Schedules 3 and 4)

- The number of housing units to be constructed by 2036 in the City over the forecast period is presented in Figure 2-2. Over the 2022 to 2036 forecast period, the City is anticipated to average approximately 610 new housing units per year.^[1]
- Institutional population^[2] is anticipated to increase by 413 people between 2022 to 2036.
- Population in new units is derived from Schedules 3 and 4 which incorporate historical development activity, anticipated units (see unit mix discussion) and average persons per unit (P.P.U.) by dwelling type for new units.
- Schedule 7 summarizes the average P.P.U. assumed for new housing units by age and type of dwelling based on Statistics Canada 2016 custom Census data for the City of Kingston. The total calculated P.P.U. for all

^[1] Includes new off-campus student housing.

^[2] Institutional population largely includes special care facilities such as nursing home or residences for senior citizens. A P.P.U. of 1.100 depicts 1-bedroom and 2-or-more- bedroom units in collective households



density types has been adjusted accordingly to account for the P.P.U. trends which has been recently experienced in both new and older units. Forecast average P.P.U.s by dwelling type are as follows:

- Low density: 2.887
- Medium density: 2.265
- High density:^[1] 1.591
- Off-campus student housing: 2.350^[2]
- Institutional Housing: 1.100

6. Existing Units and Population Change (Appendix A – Schedules 3 and 4)

- Existing households for mid-2022 are based on 2021 Census households, plus estimated residential units constructed between mid-2021 to the beginning of the growth forecast period, assuming a six-month lag between construction and occupancy (see Schedule 3).
- The change in average occupancy levels for existing housing units is calculated in Schedules 3 and 4, by aging the existing population over the forecast period. The forecast population change in existing households over the 2022 to 2036 forecast period is 228.

7. Employment (Appendix A – Schedule 8)

- The employment projections provided herein are largely based on the activity rate method, which is defined as the number of jobs in the City divided by the number of residents.
- employment data for the City is outlined in Schedule 6. In accordance with Statistics Canada Census data, the City's 2016 employment base including work at home and no fixed place of work (N.F.P.O.W.) is 74,805.^[3]
- Total employment, including work at home and N.F.P.O.W. for the City is anticipated to reach approximately 88,670 by mid-2036. This represents

[1] Includes accessory units, bachelor, 1-bedroom and 2-or-more-bedroom apartments

[2] City of Kingston Population, Housing and Employment Growth Forecast, 2016 to 2046, Final Report, March 5, 2019, Watson & Associates Economists Ltd.

[3] No fixed place of work is defined by Statistics Canada as "persons who do not go from home to the same workplace location at the beginning of each shift. Such persons include building and landscape contractors, travelling salespersons, independent truck drivers, etc."



an employment increase of approximately 8,080 over the 2022 to 2036 forecast period.

- Schedule 8, Appendix A, summarizes the employment forecast, excluding work at home employment and N.F.P.O.W. employment, which is the basis for the C.B.C. employment forecast. The impact on municipal services from work at home employees has already been included in the population forecast. The need for municipal services related to N.F.P.O.W. employees has largely been included in the employment forecast by usual place of work (i.e., employment and gross floor area generated from N.F.P.O.W. construction employment).
- Total employment for the City (excluding work at home and N.F.P.O.W. employment) is anticipated to reach approximately 77,050 by mid-2036. This represents an employment increase of approximately 6,490 for the 2022 to 2036 forecast period.

Based upon the above information, the following summaries are provided for use in the calculations presented in chapter 4, as follows:

- Of the services to be provided, most service costs will be allocated a 74% residential share (Table 2-3);
- Of the residential portion of the costs, 52% of the population is forecasted to reside in high-density residential units (Table 2-4); and
- Of those whose reside in high density residential units, 72% are forecasted to reside in units to which the C.B.C. may be imposed (Table 2-5).



Table 2-3
Residential and Non-Residential Growth Share based on Incremental Growth in
Population and Employment over the Forecast Period

Residential Population and Non-Residential Employment	Net Population/ Employment	Residential/ Non- Residential %
Residential Net Population ^[1]	18,375	74%
Employment (Net of Work at Home & N.F.P.O.W.)	6,486	26%
Total Population & Employment	24,861	100%

^[1] Note: Population includes Census population, off-campus students, and institutional population.

Table 2-4
Low/Medium Density Growth and High-Density Growth Share – Gross Population

Residential Density	Gross Residential Population	% of Gross Population in New Units
Low/Medium Density	8,761	48%
High Density	9,386	52%
Total Residential Forecast	18,147	100%

Note: Population includes Census population, off-campus students, and institutional population.



Table 2-5
Eligible and Ineligible High-Density Growth Share

Residential High Density	Residential Population	% of Gross Population in High Density Units
Eligible High Density	6,716	72%
Ineligible High Density	2,670	28%
Total Residential High Density Forecast	9,386	100%

Note: Population includes Census population, off-campus students, and institutional population.

2.4 Land Valuation and Analysis

As the C.B.C. rate is applied against the value of land the day before a building permit is issued, average land values are required to be assessed in various locations throughout the City where the development and redevelopment is anticipated. These land values assist in calculating the eligible C.B.C. rate (up to a maximum of 4%). As such the City provided Watson with various land appraisal in different locations. In addition, comparative sales regarding these appraisals were taken into consideration to come up with an average land value throughout the City. The average land price of these properties equated to \$13,656,815 per hectare. This estimate has been used for purposes of C.B.C. Strategy to estimate total potential land value for eligible high-density development.



Chapter 3

Approach to the Calculation

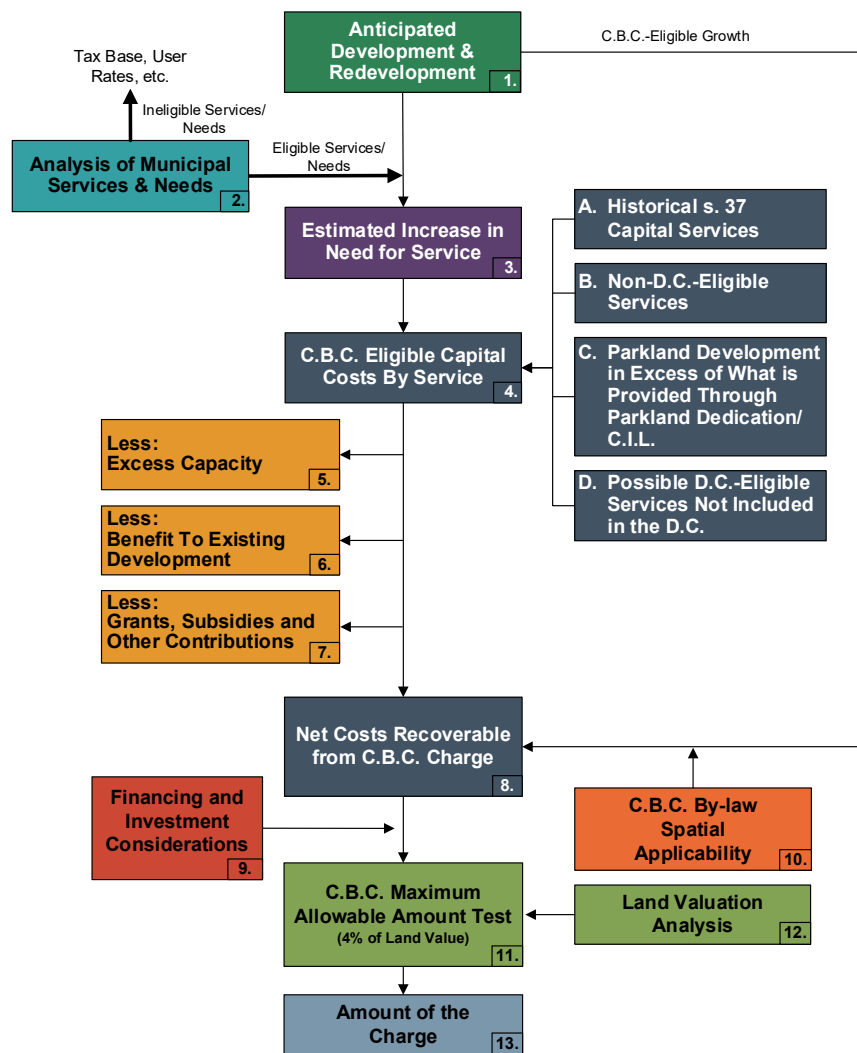


3. The Approach to the Calculation of the Charge

3.1 Introduction

This chapter addresses the requirements of subsection 37(9) of the *Planning Act* and sections 2 and 3 of O. Reg. 509/20 with respect to the establishment of the need for service which underpins the C.B.C. calculation. These requirements are illustrated schematically in Figure 3-1.

Figure 3-1
The Process of Calculating a Community Benefits Charge under the *Planning Act*





3.2 Anticipated Development and Redevelopment

The anticipated development and redevelopment forecast is provided in chapter 2 (with supplemental tables in Appendix A). This chapter provides for the anticipated overall growth within the City over a 14-year (mid-2022 to mid-2036) time horizon and then estimates the residential units eligible to be considered as per section 37 (4) of the *Planning Act*.

3.3 Services Potentially Involved

As per section 37 (5) of the *Planning Act*, a C.B.C. may be imposed for services that do not conflict with services or projects provided under a municipality's D.C. by-law or Parkland dedication by-law. Hence, the service provided under the C.B.C. would be defined as follows:

- (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 subsection 2 (4) of the D.C.A. that are not intended to be funded under a D.C. by-law; and
- (c) capital costs for municipal services ineligible for inclusion in a D.C. by-law.

Examples of services not provided by a D.C. or Parkland by-law include (but are not limited to) capital facilities and equipment for municipal parking, airports, municipal administration building expansions, museums, arts centres, public art, heritage preservation, landfill, public realm improvements, community gardens, space for non-profits, etc.

3.4 Increase in the Need for Service

Similar to a D.C., the C.B.C. calculation commences with an estimate of “the increase in the need for service attributable to the anticipated development,” for eligible services to be covered by the by-law. There must be some form of link or attribution between the anticipated development and the estimated increase in the need for service. While the need could potentially be expressed generally in terms of units of capacity, a project-



specific expression of need would appear to be most appropriate. This is suggested by the requirement of section 2 (e) of O. Reg. 509/20 which provides “include estimates of the capital costs necessary to provide the facilities, services and matters referred to in clause 2 (b).” As noted, this is a similar consideration provided when undertaking a D.C. calculation.

3.5 Capital Forecast

Section 37 (2) of the *Planning Act* provides that, “The council of a local municipality may by by-law impose community benefits charges against land to pay for the capital costs of facilities, services and matters.” The Act does not define what capital costs may be included within the charge. As noted in section 3.3 above, the Act provides that the C.B.C. charge could include capital costs for eligible D.C. services that are not intended to be funded under the City’s D.C. by-law. This provision suggests that capital costs may be defined in an equivalent manner as the D.C.A. Hence, based on this relationship with the D.C.A., capital costs may include:

- (a) costs to acquire land or an interest therein (including a leasehold interest);
- (b) costs to improve land;
- (c) costs to acquire, lease, construct or improve buildings and structures;
- (d) costs to acquire, lease or improve facilities, including rolling stock (with a useful life of 7 or more years), furniture and equipment (other than computer equipment), materials acquired for library circulation, reference, or information purposes;
- (e) interest on money borrowed to pay for the above-referenced costs;
- (f) costs to undertake studies in connection with the above-referenced matters; and
- (g) costs to undertake the C.B.C. Strategies.

3.6 Deductions

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.



The requirements behind each of these reductions are addressed below.

3.6.1 Reduction for Excess Capacity

Section 2 (c) of O. Reg. 509/20 requires the identification of the excess capacity that exists in relation to the facilities, services and matters referred to in clause 2(b) suggesting the need for a potential deduction to the capital.

“Excess capacity” is undefined, but in this case, the excess capacity must be able to meet some or all of the increase in need for service, in order to potentially represent a deduction. The deduction of excess capacity from the future increase in the need for the service would normally occur as part of the conceptual planning and feasibility work associated with justifying and sizing new facilities, e.g., if a new landfill site to accommodate increased solid waste generated by the new growth is not required because sufficient excess capacity is already available, then a landfill site expansion would not be included as an increase in need, in the first instance.

3.6.2 Reduction for Benefit to Existing Development

Section 2 (c) of O. Reg. 509/20 of the *Planning Act* provides that the capital estimates identify extent to which an increase in a facility, service or matter referred to in clause 2 (b) of the regulation would benefit existing development. The general guidelines used to consider benefit to existing development included:

- the repair or unexpanded replacement of existing assets that are in need of repair;
- the elimination of a chronic servicing problem not created by growth; and
- providing services where none previously existed (for example, extending garbage pickup to the rural area which previously did not receive the municipal service).

Where existing development has an adequate service level which will not be tangibly increased by an increase in service, no benefit would appear to be involved. For example, where expanding existing garbage collection vehicles simply replicates what existing residents are receiving, they receive very limited (or no) benefit as a result. On the other hand, where a clear existing service problem is to be remedied, a deduction should be made accordingly.



In the case of services such as cultural facilities, the service is typically provided on a municipal-wide system basis. For example, facilities of the same type may provide different services (i.e., art vs. theatre), different programs (i.e., art classes vs. acting classes), and different time availability for the same service (i.e., art classes available on Wednesdays in one facility and Thursdays in another). As a result, residents will travel to different facilities to access the services they want at the times they wish to use them, and facility location generally does not correlate directly with residence location. Even where it does, displacing users from an existing facility to a new facility frees up capacity for use by others and generally results in only a very limited benefit to existing development. Further, where an increase in demand is not met for a number of years, a negative service impact to existing development is involved for a portion of the planning period.

3.6.3 Reduction for Anticipated Grants, Subsidies and Other Contributions

This step involves reducing the capital costs by capital grants, subsidies, and other contributions made or anticipated by Council and in accordance with various rules such as the attribution between the share related to new vs. existing development. That is, some grants and contributions may not specifically be applicable to growth or where Council targets fundraising as a measure to offset impacts on taxes.

Although specific grants, subsidies and/or other contributions may not be currently identified and reduced in the calculations, due diligence will be undertaken by City staff during the annual budget process to net off any future identified funding from these other sources.

3.7 Municipal-wide vs. Area Rating

This step involves determining whether all of the subject costs are to be recovered on a uniform municipal-wide basis or whether some or all are to be recovered on an area-specific basis. Unlike D.C.s, there is no mandatory requirement to consider area rating of services (providing charges for specific areas and services); however, the legislation does not prohibit area rating. There may be instances where Council may consider varying rates to align with other policies or possible incentives in the development area.



Through the C.B.C. strategy process, discussions with municipal staff took place related to structuring the charge on a municipal-wide vs. area specific basis. As the services being provided in the strategy are not restricted to one specific area and are anticipated to be used by all residents within the municipality, the charges have been provided on a municipal-wide basis. Although the charges are to be calculated and imposed on a municipal-wide basis, consideration of location of the projects will take place through the annual budget process.

3.8 Land Valuation Analysis

To facilitate the rate calculation provided in section 3.9, an estimate of the market value of the land related to the anticipated applicable development/redevelopment presented in section 3.2, needs to be undertaken. It is noted that the land values may vary based on a number of factors including location, zoning density, parcel size, etc., however, these values should estimate the land value the day before building permit issuance. This data may be available from municipal staff, or the municipality may consider engaging the assistance of a land appraiser.

3.9 Calculation of the Community Benefits Charge

Section 37(32) of the *Planning Act* provides that the maximum charge which can be imposed is prescribed by the regulations. The maximum charge is prescribed as a percentage of the value of land for incremental C.B.C. eligible development. Section 3 of O. Reg 509/20 establishes the percentage of the value of land at 4%.

To calculate the rate, the net capital cost (provided by netting the deductions set out in section 3.6 from the capital presented in section 3.5) divided by the land values related to the anticipated applicable development/redevelopment produces a percentage of the capital cost to the land value. The product of this calculation provides for the eligible rate. As noted above, the maximum rate to be imposed is 4%; hence, the rate can be any rate between 0% and 4%.

Alternatively, a municipality may choose to impose a rate on another basis. For example, the charge could be calculated on a per dwelling unit basis similar to a development charge (D.C.). This calculation would be facilitated by dividing the net capital cost by the forecast incremental gross population growth to arrive at a C.B.C. per



capita. This rate would then be applied to the person per unit occupancy assumptions for high-density residential dwelling units to determine the charge. Moreover, the charge could be denominated based on land area, where the net capital costs would be divided by the amount of land anticipated to be occupied by the forecast residential dwelling units constructed over the forecast period.



Chapter 4

C.B.C. Eligible Cost Analysis



4. C.B.C. Eligible Cost Analysis

4.1 Introduction

This chapter outlines the basis for calculating eligible costs to be recovered through a C.B.C. by-law, which are to be applied on a uniform municipal-wide basis. In each case, the required calculation process set out in O. Reg. 509/20 section 2 (a) through (f) to the *Planning Act* and described in Chapter 3 was followed in determining C.B.C. eligible costs.

The nature of the capital projects and timing identified in this Chapter reflects City staff's recommendation based on Council policy directions. However, it is recognized that over time, capital projects and Council priorities change, which may alter the timing and/or capital projects required to service growth.

Initially, the City wanted to undertake a review of its Parkland Dedication By-law at the same time as the preparation of the C.B.C. Strategy. The intent was to appropriately include in the C.B.C. Strategy any growth-related costs that would not be recovered through the other mechanism. In this regard, no parkland acquisitions costs have been considered at this time. It is anticipated that the need for C.B.C. funding of additional parkland requirements would be reassessed at the completion of the City's Official Plan and subsequent updating of its Parkland Dedication By-law.

In undertaking the C.B.C. Strategy, the following services were considered:

- Forestry Services;
- Housing and Social Services;
- Electric Vehicle (E.V.) Strategy;
- Heritage Services;
- Arts and Culture Services; and
- Growth-related studies not eligible under the D.C.A.
- C.B.C. Strategies



4.2 Allocation of Costs to C.B.C Eligible Development

To determine the C.B.C. eligible capital costs for the City, the gross capital costs were estimated based on the City's 2022 Capital Budget and Forecast, as well as discussions with City staff. Having estimated the capital costs for each project, deductions related to excess capacity, benefit to existing development, and grants, subsidies, or other contributions were assessed. The resultant net growth-related costs were then allocated to the C.B.C. eligible share of the anticipated development based on the following:

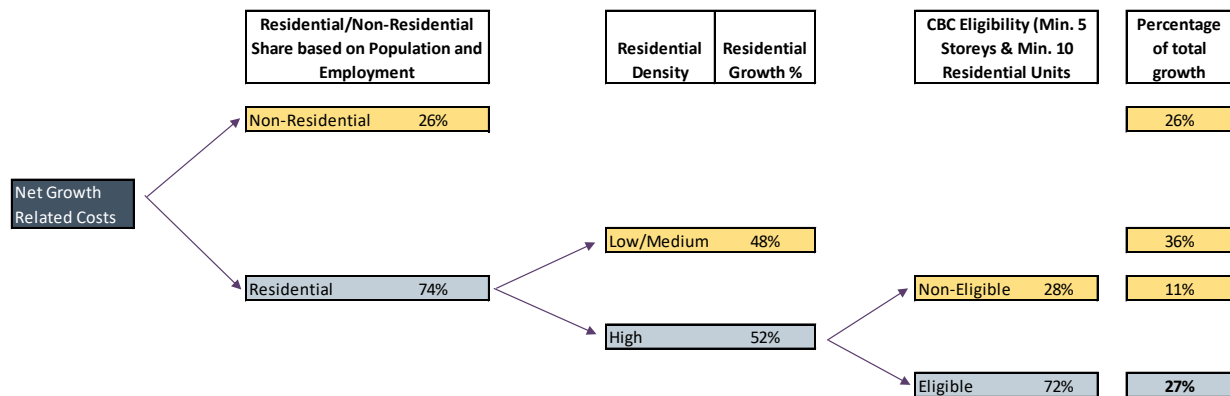
- Net capital costs for Growth-Related Studies (not eligible under the D.C.A.), Heritage Services, and E.V. Strategy were apportioned between residential (74%) and non-residential development (26%) based on the incremental population and employment growth over the 14-year forecast period (Table 2-3).
- The net capital costs for Arts and Culture Services as well as Forestry Services were allocated 95% residential development and 5% non-residential development, reflective of the increase in need for service from these types of development. This allocation approach between residential and non-residential development is consistent with the City's practice within its D.C. background study.
- Affordable housing has been apportioned 100% to the residential sector.
- C.B.C. Strategies have been allocated to C.B.C. eligible residential development only.
- The net capital costs associated with residential development were subsequently allocated between low-density and medium-density development types (48%) and high-density development (52%) over the forecast period, based on the respective population growth forecast for these dwelling unit types (Table 2-4).
- Finally, the net capital costs assigned to high-density development were apportioned to the C.B.C. eligible development, i.e. buildings with a minimum of five storeys and at least 10 residential dwelling units. As summarized in Table 2-5, this type of development accounts for 72% of all high-density residential dwelling units over the forecast period.

As noted above, similar to the calculations undertaken in the City's D.C. Study, some services are shared between residential and non-residential growth based on the



incremental population and employment over the forecast period. Based on the C.B.C. 14-year forecast, this would result in an allocation of 74% residential/26% non-residential. Figure 4-1 provides a flow chart of the shares that would be assigned to services such as Growth-related studies not eligible under the D.C.A., Heritage Services, and E.V. Strategy. The allocations between the total growth anticipated over the forecast period would result in 27% of net growth-related costs being eligible for recovery through the C.B.C.

Figure 4-1
Growth Shared for Growth-Related Studies, Heritage Services, and E.V. Strategy

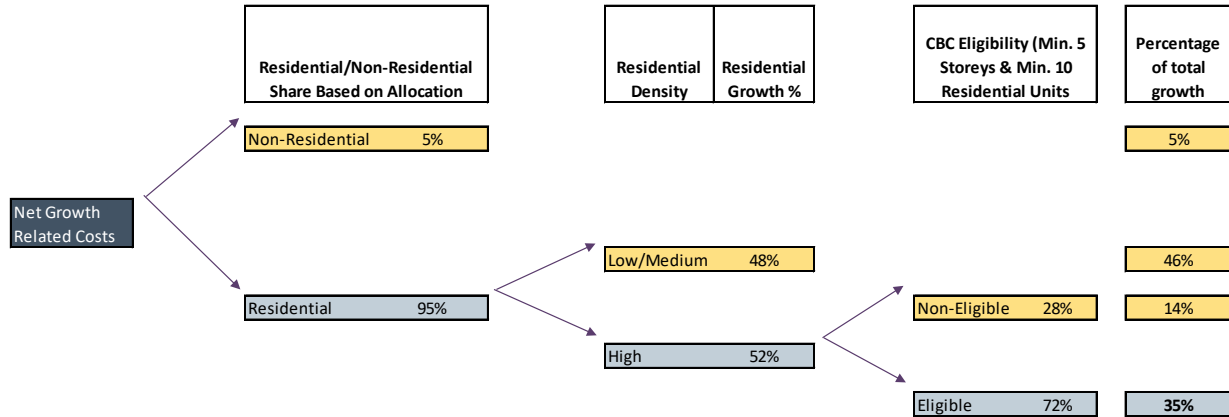


¹ Net Growth Related Costs are net of deductions for Benefit to existing, excess capacity, grants, subsidies, and other contributions, etc.

As the predominant users of parks, recreation, and culture tend to be residents of the City, the forecast growth-related costs for Arts and Culture Services as well as Forestry Services have been allocated 95% to residential and 5% to non-residential, similar to the allocations provided in the City’s D.C. Study for these types of services. Figure 4-2 provides a flow chart of the shares that would be assigned to these services, which results in a 35% recovery of growth-related costs through the C.B.C.



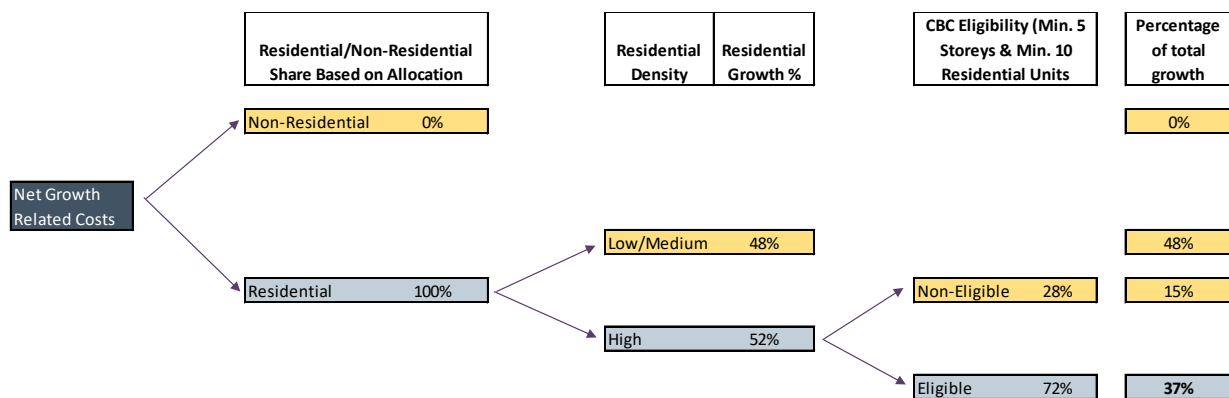
Figure 4-2
Growth Shared for Arts and Culture Services and Forestry Services



¹ Net Growth Related Costs are net of deductions for Benefit to existing, excess capacity, grants, subsidies, and other contributions, etc.

For costs related to Housing and Social Services as well as the C.B.C. Strategies, the forecast growth-related costs have been allocated 100% to residential as these services are provided mainly for the residential base in the City. Figure 4-3 provides a flow chart of the shares that would be assigned to Housing and Social Services and C.B.C. Strategies, resulting in a 37% recovery of growth-related costs through the C.B.C

Figure 4-3
Growth Shared for Housing and Social Services



¹ Net Growth Related Costs are net of deductions for Benefit to existing, excess capacity, grants, subsidies, and other contributions, etc.



For the costs related to undertaking the C.B.C. Strategies, 100% is attributable to the eligible high-density growth as the C.B.C. is not applicable to other forms of development (see Table 4-7).

4.3 C.B.C. Eligible Cost Analysis

This section provides for the evaluation of development-related capital requirements over a 14-year (2022 to 2036) planning horizon. The capital cost related to the increase in need for service are presented in Tables 4-1 to 4-7 and as follows:

- **Forestry Services** – The City’s capital budget identifies a Neighbourhood Tree Planting project. The gross capital costs of this project total approximately \$7.65 million. No deductions were made regarding excess capacity or possible grants, subsidies, and other contributions towards the capital costs. However, approximately \$6.83 million has been deducted for the benefit to existing development. After accounting for the benefit of these needs to non-residential development (i.e. \$40,970), low and medium density residential development (i.e. \$375,810), and ineligible high density residential development (i.e. \$114,532), the potential C.B.C. recoverable costs total \$288,088 (Table 4-1).
- **Affordable Housing** – The City’s capital budget identifies costs regarding the Housing and Homelessness Plan to support housing services in the City. In addition, based on discussions with staff, the Housing and Homelessness Plan also reflects council approved target for additional units per year. The gross capital costs of these projects total approximately \$51.4 million. Approximately \$29 million has been deducted for the benefit to existing development and approximately \$19 million has been deducted to reflect possible grants, subsidies, and other contributions towards the capital costs. This results in approximately \$3.5 million net growth-related capital costs. After accounting for the benefit of these needs to non-residential development, low/medium density residential development (i.e. \$1.7 million), and ineligible high density residential development (i.e. \$510,639), the potential C.B.C. recoverable costs total approximately \$1.3 million (Table 4-2).



- **E.V. Strategy** – The City’s capital budget identifies a new E.V. Strategy. The gross capital costs of these projects total approximately \$350,000. Approximately \$312,500 has been deducted for the benefit to existing development, resulting in \$37,500 net growth-related costs. After accounting for the benefit of these needs to non-residential development (i.e. \$9,783), low/medium density residential development (i.e. \$13,381), and ineligible high density residential development (i.e. \$4,078), the potential C.B.C. recoverable costs total \$10,258 (Table 4-3).
- **Heritage Services** – The City’s capital budget identifies a Heritage Property Designation Update as well as an Expansion of Market Square project. The gross capital costs of this project total approximately \$560,000. No deductions were made regarding excess capacity or possible grants, subsidies, and other contributions towards the capital costs. However, \$451,800 has been deducted for the benefit to existing development. After accounting for the benefit of these needs to non-residential development (i.e. \$28,228), low and medium density residential development (i.e. \$38,609), and ineligible high density residential development (i.e. \$11,766), the potential C.B.C. recoverable costs total \$29,597 (Table 4-4).
- **Arts and Culture Services** – The City’s capital budget identifies costs regarding a Public Art Program, Projects and Policies. In addition, the capital budget also identifies the Third Crossing project. The gross capital costs of these projects total approximately \$4.7 million. Approximately \$3.8 million has been deducted for the benefit to existing development. This results in approximately \$0.9 million net growth-related capital costs. After accounting for the benefit of these needs to non-residential development (i.e. \$46,275), low/medium density residential development (i.e. \$424,470), and ineligible high density residential development (i.e. \$129,362), the potential C.B.C. recoverable costs total \$325,390 (Table 4-5).
- **Growth-Related Studies** – The City is undertaking multiple studies, such as the Density by Design, the 3D GIS Development Strategy, Site Plan By-Law update and future updates to the New Zoning By-Law, to address growth and high-density developments in the City. The gross capital costs for these studies total approximately \$4.0 million. After deducting the share of the costs that are a



benefit to existing development and non-C.B.C. eligible development, the potential C.B.C. recoverable costs total \$833,492 (Table 4-6).

- **Community Benefits Charge Strategies** – The City has identified three (3) C.B.C. strategies as a result of anticipated development. The gross capital cost estimate is \$450,000 and there is no B.T.E. or grants, subsidies, or other contributions for this service. As a result, the net-growth related cost is \$450,000 and the potential C.B.C. recoverable costs total \$450,000 (Table 4-7).

Based on the calculations and allocations to eligible high-density growth, the City has identified approximately \$3.2 million in eligible net growth-related costs to be included within the C.B.C. calculations.



Table 4-1
Capital Infrastructure Needs to be Recovered through C.B.C.s for Forestry Services

Prj.No	Increased Service Needs Attributable to Anticipated Development	Timing (year)	Gross Capital Cost	Less:		Net Growth-Related Cost	Total Non-Residential Share	Total Residential Share	Low/Medium Density Residential	Total High Density Residential	Potential C.B.C. Recoverable Cost	
				Benefit to Existing	Grants, Subsidies and Other Contributions Attributable to New Development						Ineligible High Density Residential	Eligible High Density Residential
	2022 - 2036						5%	95%	48%	52%	28%	72%
1	Tree Planting and Neighbourhood Tree Planting	2022-2036	7,650,000	6,830,600	-	819,400	40,970	778,430	375,810	402,620	114,532	288,088
	Total		7,650,000	6,830,600	-	819,400	40,970	778,430	375,810	402,620	114,532	288,088

Table 4-2
Capital Infrastructure Needs to be Recovered through C.B.C.s for Housing and Social Services

Prj.No	Increased Service Needs Attributable to Anticipated Development	Timing (year)	Gross Capital Cost	Less:		Net Growth-Related Cost	Total Non-Residential Share	Total Residential Share	Low/Medium Density Residential	Total High Density Residential	Potential C.B.C. Recoverable Cost	
				Benefit to Existing	Grants, Subsidies and Other Contributions Attributable to New Development						Ineligible High Density Residential	Eligible High Density Residential
	2022 - 2036						0%	100%	48%	52%	28%	72%
1	Housing & Homelessness Plan	2022-2036	290,000	258,900	-	31,100	-	31,100	15,014	16,086	4,576	11,510
2	Housing & Homelessness Plan - Additional Units	2022-2036	51,072,000	28,671,900	18,960,574	3,439,526	-	3,439,526	1,660,533	1,778,993	506,063	1,272,930
	Total		51,362,000	28,930,800	18,960,574	3,470,626	-	3,470,626	1,675,547	1,795,079	510,639	1,284,439



Table 4-3
Capital Infrastructure Needs to be Recovered through C.B.C.s for E.V. Strategy

Prj.No	Increased Service Needs Attributable to Anticipated Development	Timing (year)	Gross Capital Cost	Less:		Net Growth-Related Cost	Total Non-Residential Share	Total Residential Share	Low/Medium Density Residential	Total High Density Residential	Potential C.B.C. Recoverable Cost	
				Benefit to Existing	Grants, Subsidies and Other Contributions Attributable to New Development						Ineligible High Density Residential	Eligible High Density Residential
	2022 - 2036						26%	74%	48%	52%	28%	72%
1	Electric Vehicle Strategy	2022-2024	350,000	312,500	-	37,500	9,783	27,717	13,381	14,336	4,078	10,258
	Total		350,000	312,500	-	37,500	9,783	27,717	13,381	14,336	4,078	10,258

Table 4-4
Capital Infrastructure Needs to be Recovered through C.B.C.s for Heritage Services

Prj.No	Increased Service Needs Attributable to Anticipated Development	Timing (year)	Gross Capital Cost	Less:		Net Growth-Related Cost	Total Non-Residential Share	Total Residential Share	Low/Medium Density Residential	Total High Density Residential	Potential C.B.C. Recoverable Cost	
				Benefit to Existing	Grants, Subsidies and Other Contributions Attributable to New Development						Ineligible High Density Residential	Eligible High Density Residential
	2022 - 2036						26%	74%	48%	52%	28%	72%
1	Heritage Property Designation Updates	2022-2034	485,000	433,000	-	52,000	13,566	38,434	18,555	19,879	5,655	14,224
2	Expansion of Market Square HCD-Density by Design	2022	75,000	18,800	-	56,200	14,662	41,538	20,054	21,484	6,112	15,373
	Total		560,000	451,800	-	108,200	28,228	79,972	38,609	41,363	11,766	29,597



Table 4-5
Capital Infrastructure Needs to be Recovered through C.B.C.s for Arts and Culture Services

Prj.No	Increased Service Needs Attributable to Anticipated Development	Timing (year)	Gross Capital Cost	Less:		Net Growth-Related Cost	Total Non-Residential Share	Total Residential Share	Low/Medium Density Residential	Total High Density Residential	Potential C.B.C. Recoverable Cost	
				Benefit to Existing	Grants, Subsidies and Other Contributions Attributable to New Development						Ineligible High Density Residential	Eligible High Density Residential
2022 - 2036												
1	Public Art Program (KCP) (C100311)	2022-2036	2,119,112	1,892,100	-	227,012	11,351	215,661	104,117	111,544	31,731	79,814
2	Public Art, permanent projects	2022-2036	1,260,000	1,125,000	-	135,000	6,750	128,250	61,916	66,334	18,870	47,464
3	The Third Crossing	2022-2024	595,485	297,700	-	297,785	14,889	282,896	136,576	146,319	41,623	104,697
Programs & Policy (C100295)												
4	Arts Fund Review	2022-2023	140,000	125,000	-	15,000	750	14,250	6,880	7,370	2,097	5,274
5	Creative Industries Strategy	2022-2023	100,000	89,300	-	10,700	535	10,165	4,907	5,258	1,496	3,762
6	Kingston Cultural Plan	2023-2024	200,000	100,000	-	100,000	5,000	95,000	45,864	49,136	13,978	35,158
7	Kingston Grand Theatre Business Plan	2023-2024	140,000	70,000	-	70,000	3,500	66,500	32,105	34,395	9,784	24,611
8	Public Art Master Plan	2023-2024	140,000	70,000	-	70,000	3,500	66,500	32,105	34,395	9,784	24,611
Total			4,694,597	3,769,100	-	925,497	46,275	879,222	424,470	454,752	129,362	325,390

Table 4-6
Capital Infrastructure Needs to be Recovered through C.B.C.s for Growth-Related Studies

Prj.No	Increased Service Needs Attributable to Anticipated Development	Timing (year)	Gross Capital Cost	Less:		Net Growth-Related Cost	Total Non-Residential Share	Total Residential Share	Low/Medium Density Residential	Total High Density Residential	Potential C.B.C. Recoverable Cost	
				Benefit to Existing	Grants, Subsidies and Other Contributions Attributable to New Development						Ineligible High Density Residential	Eligible High Density Residential
2022 - 2036												
1	Density by Design	2022-2025	400,000	100,000	-	300,000	78,267	221,733	107,048	114,685	32,624	82,061
2	Zoning By-law Consolidation	2022-2033	455,000	113,800	-	341,200	89,016	252,184	121,749	130,435	37,104	93,331
3	Project Costs/Long Term Planning	2022-2036	3,100,000	775,000	-	2,325,000	606,571	1,718,429	829,623	888,807	252,836	635,971
4	3D GIS Development Strategy	2022-2024	33,000	8,300	-	24,700	6,444	18,256	8,814	9,442	2,686	6,756
5	Site Plan By-Law Update	2022	75,000	18,800	-	56,200	14,662	41,538	20,054	21,484	6,112	15,373
Total			4,063,000	1,015,900	-	3,047,100	794,960	2,252,140	1,087,287	1,164,853	331,361	833,492



Table 4-7
Capital Infrastructure Needs to be Recovered through C.B.C.s for C.B.C Strategies

Prj.No	Increased Service Needs Attributable to Anticipated Development	Timing (year)	Gross Capital Cost	Less:		Net Growth-Related Cost	Total Non-Residential Share	Total Residential Share	Low/Medium Density Residential	Total High Density Residential	Potential C.B.C. Recoverable Cost	
				Benefit to Existing	Grants, Subsidies and Other Contributions Attributable to New Development						Ineligible High Density Residential	Eligible High Density Residential
	2022 - 2036						0%	100%	0%	100%	0%	100%
1	Community Benefits Charges Strategy	2022	150,000	-	-	150,000	-	150,000	-	150,000	-	150,000
2	Community Benefits Charges Strategy	2027	150,000	-	-	150,000	-	150,000	-	150,000	-	150,000
3	Community Benefits Charges Strategy	2032	150,000	-	-	150,000	-	150,000	-	150,000	-	150,000
	Total		450,000	-	-	450,000	-	450,000	-	450,000	-	450,000



Chapter 5

C.B.C. Calculation



5. C.B.C. Calculation

5.1 Anticipated Funding Recovery

To summarize the calculation of the charge, the following has been undertaken:

- 1) Anticipated Development: As presented in Chapter 2, the 14-year growth forecast provides for 3,647 eligible high-density units (i.e., in buildings containing a minimum of five storeys and a minimum of 10 residential units).
- 2) Land Valuation: Estimated land values were based on land appraisals provided by City Staff as described in section 2.4 of this report.
- 3) Identification of Services: A number of services were identified including Forestry Services, Affordable Housing, E.V. Strategy, Heritage Services, Arts and Culture Services, Growth-related studies, and the C.B.C. strategies.
- 4) C.B.C. Eligible Costs: Capital needs related to the identified services were provided by City 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-costs were then allocated amongst all types of growth to calculate the amount that is associated with eligible high-density units.
- 5) Total Land Value: Based on the growth forecast, density assumptions, and land valuation assessment, the total land value for eligible high density was calculated to equal approximately \$183.2 million.
- 6) Maximum C.B.C.: As per the *Planning Act*, the maximum a municipality can impose for a C.B.C. is equal to 4% of the land value of a property¹, the day before building permit issuance. Based on the total land value, the estimated potential C.B.C. recovery for the City equates to approximately \$7.3 million for the 14-year forecast period.

¹ Adjusted for an existing building where redevelopment occurs.



The City has identified capital costs attributable to eligible high-density growth of approximately \$3.2 million which are within the calculated maximum allowable amount of \$7.3 million.

Table 5-1 provides the calculated charges on a per unit basis. The calculation is generated on a per capita basis and is based upon two forms of housing types (apartments 2+ bedrooms and apartments bachelor and 1-bedroom). The per unit charge structure aligns with the City's D.C. structure for apartment dwelling units and will assist with the ease of administration and implementation of the charges. The proposed C.B.C. would be \$856 per unit for apartments of two bedrooms and greater, \$598 for one bedroom and bachelor apartment units.



Table 5-1
City of Kingston
Community Benefits Charge Calculation
2022 -2036

Service	Gross Capital Cost Estimate (2022\$)	Net Residential Share (2022\$)	C.B.C. Eligible Cost (2022\$)
Public Works Services - Forestry	\$7,650,000	\$778,430	\$288,088
Housing and Social Services	\$51,362,000	\$3,470,626	\$1,284,439
Community Benefits Strategies	\$450,000	\$450,000	\$450,000
Planning Services - Growth-Related Studies	\$4,063,000	\$2,252,140	\$833,492
Heritage Services	\$560,000	\$79,972	\$29,597
Real Estate and Environment Initiatives	\$350,000	\$27,717	\$10,258
Arts and Culture Services - Public Art	\$4,694,597	\$879,222	\$325,390
Total	\$69,129,597	\$7,938,106	\$3,221,264
Total Capital Costs for C.B.C. Recovery			\$3,221,264
Anticipated C.B.C. Residential Dwelling Units (2022-2036)			647
Density Assumption (units per hectare)			
Land Area for Residential Dwelling Unit Forecast (hectares)			4
Estimated Average Land Value (\$/hectare)			656,815
Total Estimated Land Value			239,780
Maximum Prescribed Value (4% of land value)			329,591
Total Capital Costs for C.B.C. Recovery			221,264
Total Estimated Land Value			239,780
Calculated C.B.C. Required to Fund Needs (% of land value)			8%
Gross Population in Eligible Units			716
C.B.C. per Capita (\$)			64
By Residential Unit Type		P.P.U.	
Apartments - one bedroom or less		1.248	
Apartments - two bedrooms or more		1.785	



Chapter 6

C.B.C. Policy Recommendations and C.B.C. By-law Rules



6. C.B.C. Policy Recommendations and C.B.C. By-law Rules

6.1 C.B.C. Policies

Planning Act section 37 and O. Reg. 509/20 outline the required policies that must be considered when adopting a C.B.C. by-law. The following subsections set out the recommended policies governing the calculation, payment and collection of C.B.C.s in accordance with the legislation.

6.2 C.B.C. By-law Rules

6.2.1 *Payment in any Particular Case*

In accordance with the *Planning Act*, subsection 37 (3), a C.B.C. may be imposed only with respect to development or redevelopment that requires one of the following:

- (a) “the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;
- (b) the approval of a minor variance under section 45 of the *Planning Act*;
- (c) a conveyance of land to which a by-law passed under subsection 50 (7) of the *Planning Act* applies;
- (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
- (e) a consent under section 53 of the *Planning Act*;
- (f) the approval of a description under section 9 of the *Condominium Act, 1998*; or
- (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.”

6.2.2 *Maximum Amount of the Community Benefits Charge*

Subsection 37 (32) of the *Planning Act* states that the amount of a C.B.C. payable in any particular case shall not exceed an amount equal to the prescribed percentage of



the value of the land as of the valuation date. Moreover where development or redevelopment is occurring on a parcel of land with an existing building or structure, the maximum C.B.C. that could be imposed is to be calculated based on the incremental development only, based on the ratio of existing floor area to total floor area.

Based on section 3 of O. Reg. 509/20, the prescribed percentage is 4%.

6.2.3 Exemptions (full or partial)

The following exemptions are provided under subsection 37 (4) of the *Planning Act* and section 1 of O. Reg. 509/20:

- Development of a proposed building or structure with fewer than five storeys at or above ground;
- Development of a proposed building or structure with fewer than 10 residential units;
- Redevelopment of an existing building or structure that will have fewer than five storeys at or above ground after the redevelopment;
- Redevelopment that proposes to add fewer than 10 residential units to an existing building or structure;
- Such types of development or redevelopment as are prescribed:
 - Development or redevelopment of a building or structure intended for use as a long-term care home within the meaning of subsection 2 (1) of the *Fixing Long-Term Care Act, 2021*.
 - Development or redevelopment of a building or structure intended for use as a retirement home within the meaning of subsection 2 (1) of the *Retirement Homes Act, 2010*.
 - Development or redevelopment of a building or structure intended for use by any of the following post-secondary institutions for the objects of the institution:
 - i. a university in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario,
 - ii. a college or university federated or affiliated with a university described in subparagraph i,
 - iii. an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*.



- Development or redevelopment of a building or structure intended for use as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion.
- Development or redevelopment of a building or structure intended for use as a hospice to provide end of life care.
- Development or redevelopment of a building or structure intended for use as residential premises by any of the following entities:
 - i. a corporation to which the *Not-for-Profit Corporations Act, 2010* applies that is in good standing under that Act and whose primary object is to provide housing,
 - ii. a corporation without share capital to which the *Canada Not-for-Profit Corporations Act* applies, that is in good standing under that Act and whose primary object is to provide housing,
 - iii. a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*.
- Affordable Residential Units where rent or the purchase price of the unit is no more than 80% of the average market rent or purchase price as defined by a new bulletin published by the Ministry of Municipal Affairs and Housing (to be proclaimed).
- Attainable Residential Units, excluding affordable units and rental units, will be defined as prescribed development or class of development and sold to a person who is at “arm’s length” from the seller (to be proclaimed).
- Inclusionary Zoning Units: Affordable housing units required under inclusionary zoning by-laws (this does not currently apply within the City of Kingston).

In addition to the exemptions noted above, the C.B.C. will not apply to buildings or structures owned by and used for the purposes of any municipality, local board, or Board of Education; affordable units within a development, and to developments where a previously executed Section 37 community benefits agreement is in place. However, if a change is proposed to a development subject to a Section 37 agreement (for example an increase in the approved unit count), the change would be subject to the C.B.C by-law.



6.2.4 Timing of Collection

The C.B.C.s imposed are calculated, payable, and collected upon issuance of a building permit for eligible development or redevelopment.

6.2.5 In-kind Contributions

A municipality that has passed a C.B.C. by-law may allow the landowner to provide to the municipality: facilities, services, or matters required because of development or redevelopment in the area to which the by-law applies. A municipality may enter into an agreement with a landowner for the provision of in-kind contributions and these agreements may be registered on title of the land to which the charge applies.

Prior to providing these contributions, the municipality shall advise the landowner of the value that of the in-kind contributions that will be attributed to them. As part of this valuation, the contributing landowner will be expected to provide any valuation documents as backup or alternatively, staff will investigate and assign a reasonable value to the in-kind contribution. This value shall be deducted from the amount the landowner would otherwise be required to pay under the C.B.C. by-law.

6.2.6 The Applicable Areas

The C.B.C. by-law will apply to all lands within the City.

6.2.7 Special Account

All money received by the municipality under a C.B.C. by-law shall be paid into a special account. The money contained within the special account:

- may be invested in securities in which the municipality is permitted to invest under the *Municipal Act, 2001*, and the earnings derived from the investment of the money shall be paid into a special reserve fund account; and
- must have at least 60 percent of the funds spent or allocated at the beginning of the year.

In addition to the monies collected under a C.B.C. by-law, transitional rules for transferring existing reserve funds are provided in subsection 37 (51) of the *Planning Act*. These rules apply for any existing reserve funds related to a service that is not



listed in subsection 2 (4) of the D.C.A., as well as reserve funds established under section 37 of the *Planning Act* prior to Bill 197.

1. If the municipality passes a C.B.C. by-law under this section before the specified date, the municipality shall, on the day it passes the by-law, allocate the money in the special account or reserve fund to the special account referred to in subsection (45) of the *Planning Act*.
2. If the municipality has not passed a C.B.C. by-law under this section before the specified date, the special account or reserve fund is deemed to be a general capital reserve fund for the same purposes for which the money in the special account or reserve fund was collected.
3. Despite paragraph 2, subsection 417 (4) of the *Municipal Act, 2001* (a provision which requires the funds raised for a reserve fund must only be used for the intended purpose) and any equivalent provision do not apply with respect to the general capital reserve fund referred to in paragraph 2.
4. If paragraph 2 applies and the municipality passes a C.B.C. by-law under this section on or after the specified date, the municipality shall, on the day it passes the by-law, allocate any money remaining in the general capital reserve fund referred to in paragraph 2 to the special account referred to in subsection (45) of the *Planning Act*.

6.2.8 Credits

Subsection 37 (52) of the *Planning Act* indicates that any credits that were established under section 38 of the D.C.A. and that are not related to a service that is listed in subsection 2 (4) of the D.C.A., may be used by the holder of the credit with respect to a charge that the holder is required to pay under a C.B.C. by-law.

6.2.9 By-law In-Force Date

A C.B.C. by-law comes into force on the day it is passed, or the day specified in the by-law, whichever is later.



6.3 Recommendations

It is recommended that Council:

Adopt the C.B.C. approach to calculate the charges on a uniform City-wide basis;

Approve the capital project listing set out in Chapter 4 of the C.B.C. Strategy dated September 20, 2022 (updated June 20, 2023), subject to further annual review during the capital budget process;

Create a special reserve fund account which will contain all C.B.C. monies collected;

Approve the C.B.C. Strategy dated September 20, 2022 (updated June 20, 2023);

Determine that no further public consultation is required; and

Approve the C.B.C. By-law.



Chapter 7

By-law Implementation



7. By-law Implementation

7.1 Introduction

This chapter addresses the public consultation process and by-law implementation requirements for the imposition of a C.B.C. by-law. Figure 7-1 provides an overview of the process.

7.2 Public Consultation Process

7.2.1 *Required Consultation*

In establishing the policy for which a C.B.C. strategy and by-law will be based; section 37 (10) of the *Planning Act* requires that:

“In preparing the community benefits strategy, the municipality shall consult with such persons and public bodies as the municipality considers appropriate.”

As there is no specific guidance as to which parties the municipality shall consult with, municipalities may establish their own policy for public consultation. The policy for public consultation should be designed to seek the co-operation and participation of those involved, in order to produce the most suitable policy. Municipalities may consider a public meeting, similar to that undertaken for D.C. study processes (however, this is not a mandated requirement). At a minimum, this would include a presentation to the Planning Committee and the public on the findings of the C.B.C. strategy, advanced notice of the meeting, and consideration for delegations from the public.

7.2.2 *Interested Parties to Consult*

There are three broad groupings of the public who are generally the most concerned with municipal C.B.C. policy.

1. The first grouping is the residential development community, consisting of land developers and builders, who will typically be responsible for generating the majority of the C.B.C. revenues. Others, such as realtors, are directly impacted by C.B.C. policy. They are, therefore, potentially interested in all aspects of the charge,



particularly the percentage applicable to their properties, projects to be funded by the C.B.C. and the timing thereof, and municipal policy with respect to development agreements and in-kind contributions.

2. The second public grouping embraces the public at large and includes taxpayer coalition groups and others interested in public policy.
3. The third grouping is the non-residential mixed-use development sector, consisting of land developers and major owners or organizations with significant construction plans for mixed use developments. Also involved are organizations such as Industry Associations, the Chamber of Commerce, the Board of Trade, and the Economic Development Agencies, who are all potentially interested in municipal C.B.C. policy. Their primary concern is frequently with the percentage charge applicable to their lands, exemptions, and phase-in or capping provisions in order to moderate the impact.

As noted in Section 1.4, through the C.B.C. strategy process, the City's consultation process includes meetings with the development community, Planning Committee, general public, and Council.

7.3 Anticipated Impact of the Charge on Development

The establishment of sound C.B.C. policy often requires the achievement of an acceptable balance between two competing realities. The first is that increased residential development fees (such as a C.B.C.) can ultimately be expected to be recovered via higher housing prices and can impact project feasibility in some cases (e.g., rental apartments). Secondly, C.B.C.s or other municipal capital funding sources need to be obtained in order to help ensure that the necessary infrastructure and amenities are installed. The timely installation of such works is a key initiative in providing adequate service levels and in facilitating strong economic growth, investment, and wealth generation.



7.4 Implementation Requirements

7.4.1 Introduction

Once the City has calculated the charge, prepared the complete strategy, carried out the public process, and passed a new by-law, the emphasis shifts to implementation matters.

These include notices, potential appeals and complaints, in-kind contributions, and finally the collection of revenues and funding of projects.

The sections that follow provide an overview of the requirements in each case.

7.4.2 Notice of Passage

In accordance with subsection 37 (13) of the *Planning Act*, when a C.B.C. by-law is passed, the clerk of the municipality shall give written notice of the passing and of the last day for appealing the by-law (the day that is 40 days after the day it was passed). Such notice must be given no later than 20 days after the day the by-law is passed (i.e., as of the day of newspaper publication or the mailing of the notice).

Section 4 of O. Reg. 509/20 further defines the notice requirements which are summarized as follows:

- notice shall be given by publication in a newspaper which is (in the clerk's opinion) of sufficient circulation to give the public reasonable notice, or by personal service, fax or mail to every owner of land in the area to which the by-law relates;
- subsection 4 (2) lists the persons/organizations who must be given notice; and
- subsection 4 (5) lists the seven items that the notice must cover.

7.4.3 Appeals

Subsections 37 (13) to 37 (31) of the *Planning Act* set out the requirements relative to making and processing a C.B.C. by-law appeal as well as an OLT hearing in response to an appeal. Any person or organization may appeal a C.B.C. by-law to the OLT by filing a notice of appeal with the clerk of the municipality, setting out the objection to the



by-law and the reasons supporting the objection. This must be done by the last day for appealing the by-law, which is 40 days after the by-law is passed.

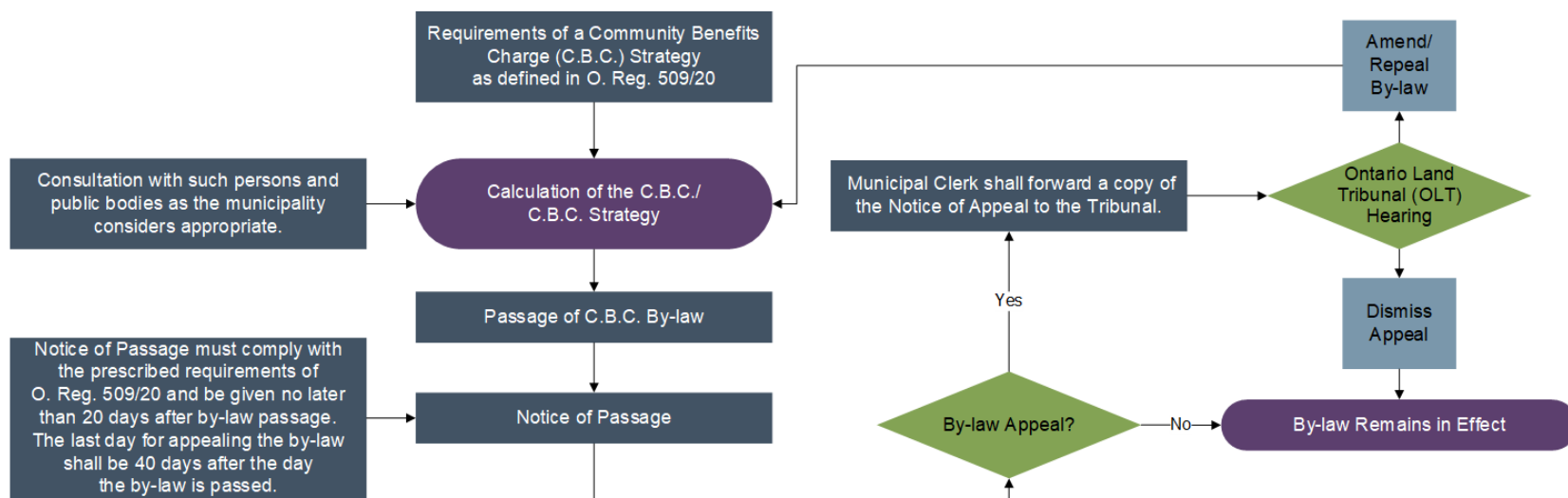
The municipality is carrying out a public consultation process, in order to address the issues that come forward as part of that process, thereby avoiding or reducing the need for an appeal to be made.

7.4.4 In-Kind Contributions

Subsections 37 (6) to 37 (8) provide the rules for in-kind contributions. An owner of land may provide the municipality facilities, services, or matters required because of development or redevelopment in the area to which the by-law applies. Prior to providing these contributions, the municipality shall advise the owner of the land of the value that will be attributed to the contributions. The value of the contributions shall be deducted from the amount the owner of the land would otherwise have to pay under the C.B.C. by-law.



Figure 7-1
The Process of Required for Passing a Community Benefits Charge By-law under the *Planning Act*





7.5 Ongoing Application and Collection of C.B.C. funds

7.5.1 Introductions

Once the municipality passes a C.B.C. by-law, development or redevelopment that meets the requirements of the C.B.C. by-law will pay a C.B.C. based on the value of their land. The following sections describe the overall process and discusses the approach to appraisals and use of the special account as set out in the *Planning Act*.

7.5.2 Overview of Process and Appraisals

Figure 7-2 provides an overview of the process for application of the C.B.C. by-law and collection of C.B.C. funds.

Once the C.B.C. 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 C.B.C.s based on the per unit charge as set out in the by-law and C.B.C. strategy.

If the landowner is of the view that the amount of the C.B.C. exceeds the prescribed value of 4% of their land value¹ 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 City agrees with the landowner's appraised value, then the owner pays their C.B.C.s based on 4% of the land value to the City and the funds will then be deposited into the special account.

If the City does not agree with the appraisal provided by the owner, the City has 45 days to provide the owner of the land with their own appraisal value. Then:

- If no appraisal is provided to the owner within 45 days, the owner's appraisal is deemed accurate and the difference in the amounts shall be refunded to the owner.

¹ Adjusted for an existing building where redevelopment occurs.



- If the municipality's appraisal is within 5% of the landowner's appraisal, the landowner's appraisal is deemed accurate, and the municipality shall refund the difference in the amounts to the owner.
- If the municipality's appraisal is more than 5% higher than the landowner's appraisal, the municipality shall request an appraisal be undertaken by an appraiser, selected by the landowner, from the list of approved appraisers provided by the municipality. This must be undertaken within 60 days. This final appraisal is deemed accurate for the purposes of calculating the applicable C.B.C.
- In regard to the last bullet, subsection 37 (42) and 37 (43) require the municipality to maintain a list of at least three persons who are not employees of the municipality or members of Council and have an agreement with the municipality to perform appraisals for the above. This list is to be maintained until the C.B.C. by-law is repealed or the day on which there is no longer any refund that could be required (whichever is later).

7.5.3 Special Reserve Fund Account

All funds collected under the C.B.C. 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. As noted in section 6.2.7, these rules are as follows:

- All money received under a C.B.C. by-law shall be paid into a special 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 reports and information as set out in section 7 of O. Reg. 509/20
- In regard to the third bullet, it is suggested that the annual capital budget for the City directly list the works which are being undertaken and/or to which monies from this fund are being allocated toward.

As per this C.B.C. strategy, the growth-related services (as outlined in Chapter 4), form 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

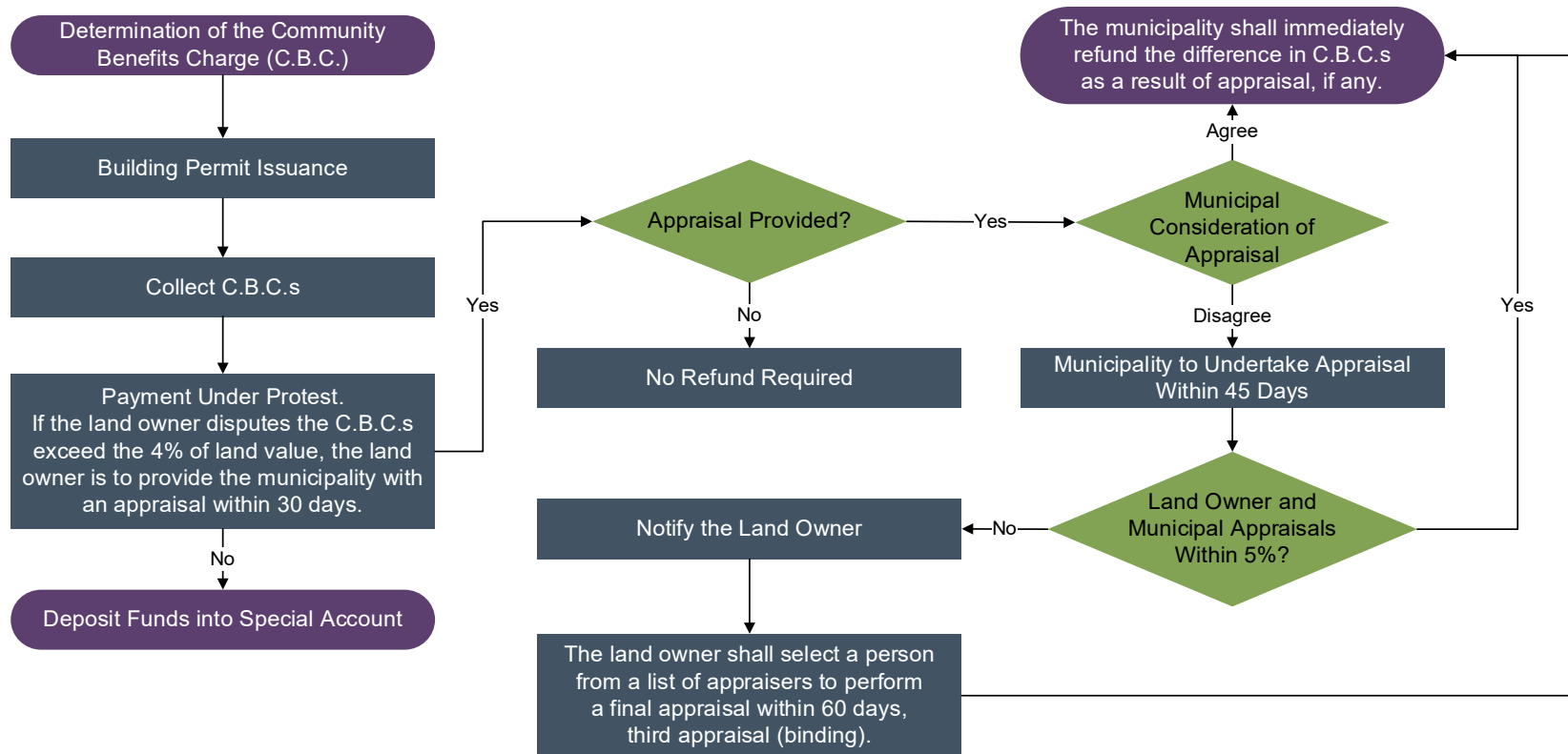


subject to approval by resolution and inclusion in the annual budget process. Further, any additional services approved and funded from C.B.C. revenue in the future will be reported on through an annual C.B.C. reserve fund statement, which will form part of the City's overall year-end statements.

During the annual budget process, the use of C.B.C. 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.



Figure 7-2
City of Kingston
Community Benefits Charge Application and Calculation Process



Note: Maximum charge of 4% of land value is multiplied by ratio of existing floor area and total floor area where redevelopment occurs.



7.6 Transitional Matters

7.6.1 Existing Reserves and Reserve Funds

The *Planning Act*, section 37 (49) to section 37 (51) provides transitional provisions for:

1. A special account established under the previous section 37 rules; and
2. A D.C. reserve fund for which services are no longer eligible.

If a municipality passes a C.B.C. by-law with an in-force date before September 18, 2022, the municipality is required to allocate the money in the Section 37 Community Benefits reserve fund to the C.B.C. special account.

If a municipality does not pass a C.B.C. by-law before September 18, 2022, the Section 37 Community Benefits reserve fund is deemed to be a general capital reserve funds for the same purpose in which the money was collected.

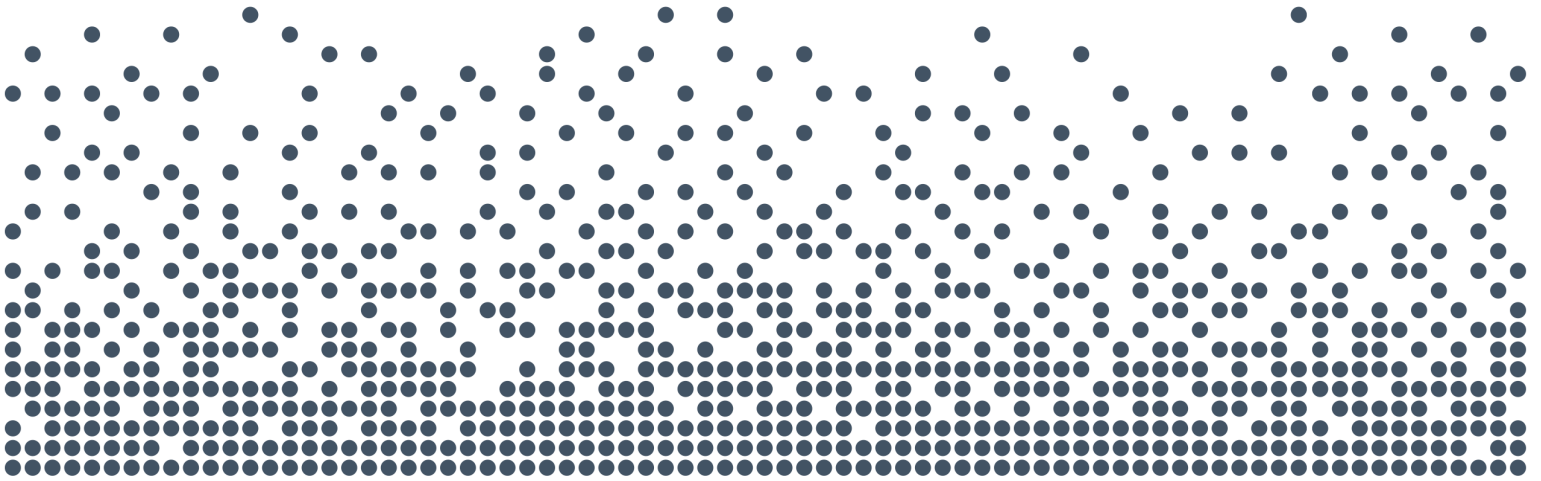
If a C.B.C. by-law is passed after September 18, 2022, the municipality is required to allocate the money from the newly created general capital reserve fund, to the C.B.C. special account. The City of Kingston's C.B.C. by-law will be passed after September 18, 2022, and as such this provision will apply.

7.6.2 Credits under Section 38 of the Development Charges Act

The *Planning Act* (s.37 (52)) provides that, if a municipality passes a C.B.C. by-law before September 18, 2022, any credits held for services that are no longer D.C. eligible (e.g., parking services), may be used against payment of a C.B.C. by the landowner. The City's D.C. By-law does not include any services which are now ineligible that could be considered through the C.B.C. Therefore, there are no credits related to D.C. ineligible services which would require an adjustment against future payments of a C.B.C.

7.6.3 Continued Application of Previous Section 37 Rules

Section 37.1 of the *Planning Act* provides for transitional matters regarding previous section 37 rules.



Appendices



Appendix A

Background Information on Residential and Non- Residential Growth Forecast



Schedule 1
City of Kingston
Residential Growth Forecast Summary

	Year	Population (Including Census Undercount) ^[1]	Excluding Census Undercount						Housing Units						Person Per Unit (P.P.U.): Total Population/ Total Households		
			Population	Institutional Population	Population Excluding Institutional Population	Student Population	Off-Campus Student Population ^[2]	Total Population and Off-Campus Student Population	Singles & Semi-Detached	Multiple Dwellings ^[3]	Apartments ^[4]	Other	Total Households	Off-Campus Student Households		Total Households Including Off-Campus Student Housing	Equivalent Institutional Households
Historical	Mid 2016	127,690	123,798	3,578	120,220	23,580	16,700	140,498	30,585	5,680	16,955	295	53,515	4,050	57,565	3,253	2.313
	Mid 2021	136,650	132,485	3,847	128,638	26,239	18,729	151,214	32,045	6,335	19,155	300	57,835	4,913	62,748	3,497	2.291
Forecast	Mid 2022	138,890	134,656	3,913	130,743	26,578	18,986	153,642	32,304	6,396	19,926	300	58,926	5,022	63,948	3,557	2.285
	Mid 2036	154,380	149,675	4,326	145,349	31,038	22,342	172,017	34,725	7,178	23,455	300	65,658	6,451	72,109	3,933	2.280
Incremental	Mid 2022 - Mid 2036	15,490	15,019	413	14,606	4,460	3,356	18,375	2,421	782	3,529	0	6,732	1,429	8,161	375	2.231

^[1] Census undercount estimated at approximately 3.1%.

^[2] Includes Townhouses and apartments in duplexes.

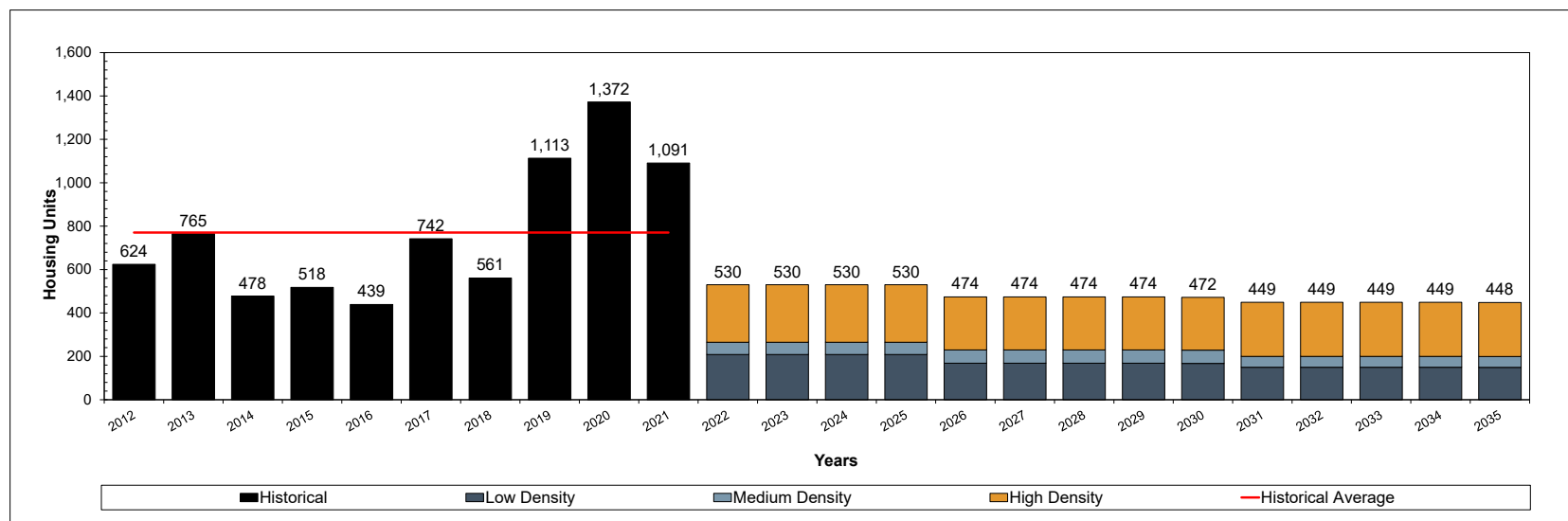
^[3] Includes bachelor, 1-bedroom, and 2-bedroom+ apartment units.

Note: Population including the Census undercount has been rounded.

Source: Watson & Associates Economists Ltd.



Figure A-1
City of Kingston
Annual Housing Forecast¹



^[1] Growth forecast represents calendar year.

Source: Historical housing activity derived from Statistics Canada building permit data for the City of Kingston, 2012-2021, by Watson & Associates Economists Ltd



Schedule 2
City of Kingston
Estimate of the Anticipated Amount, Type and Location of
Residential Development for Which Community Benefits Charges Can Be Imposed

Timing	Single & Semi-Detached	Multiples ¹	Apartments ²							Off-Campus Student Households			Apartments + Off-Campus Students		
			Secondary Units	Apartments net Secondary Units	Net Secondary - Ineligible	Net Secondary - Eligible	Units in C.B.C. Ineligible Buildings	Units in C.B.C. Eligible Buildings	Total Apartment Units	Units in C.B.C. Ineligible Buildings	Units in C.B.C. Eligible Buildings	Total Units	Units in C.B.C. Ineligible Buildings	Units in C.B.C. Eligible Buildings	Total Units
2022 - 2036	2,421	782	629	2,900	457	2,443	1,086	2,443	3,529	225	1,204	1,429	1,311	3,647	4,958

^[1] Includes Townhouses and apartments in duplexes.

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

^[3] Gross population represents the population derived from new housing units unadjusted for population decline in existing households over the respective forecast period.

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

Source: Watson & Associates Economists Ltd..



Schedule 3
City of Kingston
Current Year Growth Forecast
Mid 2021 to Mid 2022

		Population
Mid 2016 Population		132,485
Occupants of New Housing Units, Mid 2021 to Mid 2022	<i>Units (2)</i>	1,091
	<i>multiplied by P.P.U. (3)</i>	2,033
	<i>gross population increase</i>	2,218
Occupants of New Equivalent Institutional Units, Mid 2021 to Mid 2022	<i>Units</i>	60
	<i>multiplied by P.P.U. (3)</i>	1,100
	<i>gross population increase</i>	66
Decline in Housing Unit Occupancy, Mid 2021 to Mid 2022	<i>Units (4)</i>	53,515
	<i>multiplied by P.P.U. decline rate (5)</i>	-0.002
	<i>total decline in population</i>	-113
Population Estimate to Mid 2022		134,656
<i>Net Population Increase, Mid 2021 to Mid 2022</i>		<i>2,171</i>

(1) 2016 population based on Statistics Canada Census unadjusted for Census undercount.

(2) Estimated residential units constructed, Mid-2016 to the beginning of the growth period assuming a six-month lag between construction and occupancy.

(3) Average number of persons per unit (P.P.U.) is assumed to be:

Structural Type	Persons Per Unit ¹ (P.P.U.)	% Distribution of Estimated Units ²	Weighted Persons Per Unit Average
<i>Singles & Semi Detached</i>	3.037	24%	0.721
<i>Multiples (6)</i>	2.377	6%	0.133
<i>Apartments (7)</i>	1.668	71%	1.179
Total		100%	2.033

¹ Based on 2016 Census custom database

² Based on Building permit/completion activity

(4) 2016 households taken from Statistics Canada Census.

(5) Decline occurs due to aging of the population and family life cycle changes, lower fertility rates and changing economic conditions.

(6) Includes townhouses and apartments in duplexes.

(7) Includes bachelor, 1-bedroom and 2-bedroom+ apartments.

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



Schedule 4
City of Kingston
Growth Forecast
Mid 2022 to Mid 2036

		Population
Mid 2022 Population		642
Occupants of New Housing Units, Mid 2022 to Mid 2036	<i>Units (2)</i>	6,732
	<i>multiplied by P.P.U. (3)</i>	2,136
	<i>gross population increase</i>	14,376
Occupants of New Off-Campus Student Units, New Housing Units, Mid 2022 to Mid 2036	<i>Units (2)</i>	1,429
	<i>multiplied by P.P.U. (3)</i>	2,350
	<i>gross population increase (4)</i>	3,358
Occupants of New Equivalent Institutional Units, Mid 2022 to Mid 2036	<i>Units</i>	375
	<i>multiplied by P.P.U. (3)</i>	1.10
	<i>gross population increase</i>	413
Incline in Housing Unit Occupancy, Mid 2022 to Mid 2036	<i>Units (4)</i>	58,926
	<i>multiplied by P.P.U. decline rate (5)</i>	0.004
	<i>total decline in population</i>	228
Population Estimate to Mid 2036		172,017
<i>Net Population Increase, Mid 2022 to Mid 2036</i>		<i>18,375</i>

(1) Mid 2022 Population based on:

2021 Population (132,485) + Mid 2021 to Mid 2022 estimated housing units to beginning of forecast period (1,091 x 2.033 = 2,218) + (60 x 1.1 = 66) + (53,515 x 0.16 = 8,574) = 134,656

(2) Based upon forecast building permits/completions assuming a lag between construction and occupancy.

(3) Average number of persons per unit (P.P.U.) is assumed to be:

Structural Type	Persons Per Unit ¹ (P.P.U.)	% Distribution of Estimated Units ²	Weighted Persons Per Unit Average
<i>Singles & Semi Detached</i>	2.887	36%	1.038
<i>Multiples (6)</i>	2.265	12%	0.263
<i>Apartments (7)</i>	1.591	52%	0.834
<i>one bedroom or less</i>	1.248		
<i>two bedrooms or more</i>	1.785		
Total		100%	2.136

¹ Persons per unit based on Statistics Canada Custom 2016 Census database.

² Forecast unit mix based upon historical trends and housing units in the development process.

(4) Mid 2022 households based upon 2021 Census (57,835 units) + Mid 2021 to Mid 2022 unit estimate (1,091 units) = 58,926 units.

(5) Decline occurs due to aging of the population and family life cycle changes, lower fertility rates and changing economic conditions.

(6) Includes townhouses and apartments in duplexes.

(7) Includes bachelor, 1-bedroom and 2-bedroom+ apartments.

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



Schedule 5
City of Kingston
Summary of C.B.C Eligible Units in the Development Approvals Process

Stage of Development	C.B.C. Eligible Units in Planning Applications	
	Total Units	Share
Committed	1,875	24%
Pending	5,793	76%
Total	7,668	100%

Source: Derived from data provide by the City of Kingston by Watson & Associates Economists



Schedule 6
City of Kingston
Historical Residential Building Permits
Years 2012 to 2021

Year	Residential Building Permits			
	Singles & Semi Detached	Multiples ¹	Apartments ²	Total
2012	243	57	324	624
2013	208	88	469	765
2014	219	73	186	478
2015	176	32	310	518
2016	185	73	181	439
Sub-total	1,031	323	1,470	2,824
Average (2012 - 2016)	206	65	294	565
% Breakdown	36.5%	11.4%	52.1%	100.0%
2017	253	83	406	742
2018	202	163	196	561
2019	281	74	758	1,113
2020	290	198	884	1,372
2021	259	61	771	1,091
Sub-total	1,285	579	3,015	4,879
Average (2017 - 2021)	257	116	603	976
% Breakdown	26.3%	11.9%	61.8%	100.0%
2012 - 2021				
Total	2,316	902	4,485	7,703
Average	232	90	449	770
% Breakdown	30.1%	11.7%	58.2%	100.0%

^[1] Includes Townhouses and apartments in duplexes.

^[2] Includes bachelor, 1-bedroom and 2-bedroom+ apartments.

Source: Historical housing activity (2011-2021) based on City of Kingston building permit data, by Watson & Associates Economists Ltd.



Schedule 7
City of Kingston
Person Per Unit by Age and Type of Dwelling
(2016 Census)

Age of Dwelling	Singles and Semi-Detached						15 Year Average	15 Year Average Adjusted ^[3]
	< 1 BR	1 BR	2 BR	3/4 BR	5+ BR	Total		
1-5	-	-	1.765	3.058	4.267	3.037		
6-10	-	-	1.848	3.009	4.385	2.986		
11-15	-	-	1.638	2.941	3.683	2.820	2.948	2.887
16-20	-	-	1.463	2.658	3.839	2.604		
20-25	-	-	1.947	2.690	3.545	2.683		
25-35	-	-	1.786	2.672	3.687	2.720		
35+	-	1.273	1.792	2.480	3.337	2.439		
Total	-	1.236	1.765	2.633	3.576	2.599		

Age of Dwelling	Multiples ¹						15 Year Average	15 Year Average Adjusted ^[3]
	< 1 BR	1 BR	2 BR	3/4 BR	5+ BR	Total		
1-5	-	-	-	2.393	-	2.377		
6-10	-	-	-	2.667	-	2.302		
11-15	-	-	-	2.400	-	2.077	2.252	2.265
16-20	-	-	2.063	2.171	-	2.000		
20-25	-	-	1.588	2.566	-	2.244		
25-35	-	-	2.029	2.676	-	2.476		
35+	-	1.277	1.749	2.598	3.259	2.248		
Total	-	1.293	1.794	2.569	2.919	2.277		

Age of Dwelling	Apartments ²						15 Year Average	15 Year Average Adjusted ^[3]
	< 1 BR	1 BR	2 BR	3/4 BR	5+ BR	Total		
1-5	-	1.282	1.782	2.769	-	1.668		
6-10	-	1.290	1.656	-	-	1.540		
11-15	-	1.333	1.738	-	-	1.667	1.625	1.591
16-20	-	1.275	1.716	2.364	-	1.614		
20-25	-	1.187	1.622	2.389	-	1.543		
25-35	-	1.222	1.676	2.551	-	1.602		
35+	1.139	1.190	1.761	2.373	-	1.599		
Total	1.350	1.215	1.727	2.429	1.929	1.601		

Age of Dwelling	All Density Types					
	< 1 BR	1 BR	2 BR	3/4 BR	5+ BR	Total
1-5	-	1.293	1.790	2.900	4.467	2.397
6-10	-	1.278	1.732	2.969	4.300	2.569
11-15	-	1.345	1.667	2.925	3.545	2.534
16-20	-	1.283	1.669	2.584	3.788	2.301
20-25	-	1.216	1.667	2.671	3.250	2.220
25-35	-	1.237	1.727	2.675	3.551	2.309
35+	0.977	1.211	1.766	2.492	3.310	2.143
Total	1.036	1.232	1.743	2.620	3.499	2.246

[1] Includes townhouses and apartments in duplexes.

[2] Includes bachelor, 1-bedroom, and 2-bedroom+ apartments.

[3] Adjusted based on 2001 to 2016 historical trends and forecast trends.

Note: Does not include Statistics Canada data classified as 'Other.'

P.P.U. Not calculated for samples less than or equal to 50 dwelling units and does not include institutional population.



Schedule 8
City of Kingston
Employment Forecast, Mid-2022 to Mid-2036

Period	Population	Activity Rate				Employment			
		Usual Place of Work	Work at Home	N.F.P.O.W. ^[1]	Total	Usual Place of Work	Work at Home	N.F.P.O.W. ^[1]	Total
2016	123,798	53.20%	2.81%	4.41%	60.43%	65,860	3,480	5,465	74,805
2021	132,485	52.53%	2.87%	4.56%	59.95%	69,598	3,798	6,036	79,431
2022	134,656	52.41%	2.87%	4.58%	59.85%	70,567	3,864	6,162	80,593
2036	149,675	51.48%	2.93%	4.83%	59.24%	77,053	4,391	7,229	88,673
Incremental Growth									
2022-2036	15,019	-0.93%	0.06%	0.25%	-0.61%	6,486	527	1,067	8,080

^[1] Statistics Canada defines no fixed place of work (N.F.P.O.W.) employees as "persons who do not go from home to the same workplace location at the beginning of each shift. Such persons include building and landscape contractors, travelling salespersons, independent truck drivers, etc."
Source: Watson & Associates Economists Ltd.

CITY OF KINGSTON BY-LAW NUMBER 2023-XX

Community Benefits Charge By-Law

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By-Law Number 2023-XX
A By-Law to Provide for the Payment of Community Benefits
Charges Pursuant to Section 37 of the *Planning Act*

Passed: **Date**

WHEREAS section 37 of the *Planning Act* provides that the council of a municipality may by by-law impose **community benefits charges** against land to pay for **capital costs** of **services** required because of **development** or **redevelopment**; and

WHEREAS pursuant to subsection 37(9) of the *Planning Act*, **Council** passed a **community benefits charge strategy**, which identifies the **services** that will be funded with **community benefits charges** and complies with **prescribed** requirements; and

WHEREAS pursuant to subsection 37(10) of the *Planning Act*, the **City** consulted with stakeholders and held a public meeting in preparing the **community benefits charge strategy**; and

WHEREAS **Council** desires to impose **community benefits charges** against land to pay for **capital costs** of **services** required because of **development** and **redevelopment**;

THEREFORE BE IT RESOLVED THAT **Council** enacts as follows:

1.0 Interpretation

1.1 This by-law may be cited as the “**Community Benefits Charge By-Law**”.

1.2 In this by-law:

“**affordable residential unit**” means:

- (a) a **residential unit** intended for use as a rented residential premises if:
 - (i) the rent is no greater than eighty (80) percent of the average market rent; and
 - (ii) the tenant is dealing at arm’s length with the landlord; or
- (b) a **residential unit** not intended for use as a rented residential premises if:

- (i) the price of the **residential unit** is no greater than eighty (80) percent of the average purchase price; and
- (ii) the **residential unit** is sold to a person who is dealing at arm's length with the seller.

“**bedroom**” means any room in a **residential unit** that is not:

- (a) a common area, being:
 - (i) a living room open to all occupants of the **residential unit**; or
 - (ii) a dining room open to all occupants of the **residential unit**;
- (b) an area used for sanitary purposes, such as a washroom;
- (c) an area used for cooking purposes, such as a kitchen;
- (d) an area occupied solely by mechanical equipment, such as furnaces, hot water heaters, or laundry equipment;
- (e) a circulation space, such as a stairway or hallway;
- (f) a room less than six (6) square metres in area where there are built-in cabinets and/or closets;
- (g) a room less than seven (7) square metres in area where there are no built-in cabinets and/or closets; or
- (h) a room without a window or similar alternative source of natural light when the door is closed.

“**building**” means anything that is comprised of components joined together and that stands more or less permanently in one place. A **building** includes all components such as walls, roofs, floors, structural systems, columns, plumbing, fixtures, service systems, private sewage systems, decks, porches, canopies, architectural features, chimneys, mechanical systems and any component that is attached to a **building**. For clarity, “**structure**” has a corresponding meaning.

“**capital costs**” means growth-related costs incurred or proposed to be incurred by the **City** or a **local board** of the **City** directly or by others on behalf of, and as authorized by, the **City** or **local board**:

- (a) to acquire land or an interest in land, including a leasehold interest;
- (b) to improve land;
- (c) to acquire, lease, construct or improve **buildings** and **structures**;
- (d) to acquire, construct or improve facilities, including:
 - (i) furniture and equipment, and;
 - (ii) rolling stock; or
- (e) to undertake studies in connection with any of the matters referred to in clauses (a) to (d) above, including the **community benefits charge strategy**,

required for the provision of **services** designated in this by-law within or outside the **City**, including interest on borrowing for those expenditures under clauses (a) to (d) above.

“City” means The Corporation of the City of Kingston.

“community benefits charge” means a charge imposed pursuant to this by-law.

“community benefits charge strategy” means the **community benefits charge strategy**, dated September 20, 2022 (updated June 20, 2023), and approved by **Council**.

“Council” means the **Council** of the **City**.

“development” and **“redevelopment”** means:

- (a) the creation of a new lot;
- (b) the creation of a new use;
- (c) a change in land use; or
- (d) the alteration, enlargement, erection, construction, reconstruction, relocation, renovation or restoration of a **building** or **structure**, or parts thereof.

“Development Charges Act” means the *Development Charges Act, 1997*, S.O. 1997, c. 27.

“**Director**” means the **City’s** Director of Planning Services, the **Director’s** designate, or, in the event of organizational changes, the director of the successor division or department responsible for the administration of this by-law.

“**finished grade**” means the average elevation of the ground surface at the base of the main wall, measured at the four (4) most distant points representing the outermost corners of the **building**. When used in reference to a round **building** or another **building** that does not have corners, **finished grade** means the average elevation of the ground surface at the base of the **building**, measured around the perimeter.

“**gross floor area**” means the total floor area of all floors of a **building** above **finished grade**, measured between the outside of the exterior walls or between the outside of exterior walls and the centre line of party walls dividing the **building** from another **building**.

“**local board**” has the meaning as set out in the *Municipal Act*.

“*Municipal Act*” means the *Municipal Act, 2001*, S.O. 2001, c. 25.

“**owner**” means the **owner** of land or a person who has made an application for an approval for the **development** or **redevelopment** of land for which a **community benefits charge** may be imposed.

“*Planning Act*” means the *Planning Act*, R.S.O 1990, c. P.13.

“**prescribed**” means **prescribed** in the regulations made under the *Planning Act*.

“**residential unit**” means a unit that:

- (a) consists of a self-contained set of rooms located in a **building** or **structure**;
- (b) is used or intended for use as residential premises; and
- (c) contains kitchen and bathroom facilities that are intended for the use of the unit only.

“**services**” means the facilities, services and matters required as a result of **development** or **redevelopment** in the area to which this by-law applies.

“**storey**” means occupied space of a **building** between the top of any floor and the top of the floor next above it, or between the top of the floor and the ceiling above the floor, if there is no floor above it. Any portion of a **building** partly below ground

is deemed a **storey** where any part of its ceiling is one (1) metre or more above **finished grade**. An attic is not a **storey**. A mezzanine level is not a **storey** where the floor area of the mezzanine is equal to forty percent (40%) or less of the **gross floor area** of the **storey** immediately below it. Where the floor area of a mezzanine level exceeds forty percent (40%) of the **gross floor area** of the **storey** immediately below it, it is a **storey**.

“zoning by-law” means any by-law enacted by the **City** under section 34 of the **Planning Act**.

1.3 For the purposes of interpreting this by-law:

- (a) a reference to any legislation, regulation, by-law, plan or strategy, or to a provision thereof includes a reference to any legislation, regulation, by-law, plan or strategy enacted, made or passed in substitution thereof or amendment thereof;
- (b) any reference to legislation includes all of the regulations made thereunder; and
- (c) “include”, “includes” and “including” indicate that the subsequent list is not exhaustive.

1.4 This by-law is not to be interpreted as exempting any person from the requirement to comply with any other **City** by-law or federal or provincial legislation. In the event of a conflict between the provisions of this by-law and any other **City** by-law, the provision that establishes the higher standard of health, safety and well-being of persons and protection of persons will apply.

2.0 Administration

2.1 The Schedule attached to this by-law forms part of it.

2.2 The **Director** is responsible for the administration of this by-law.

2.3 Where this by-law provides that the **Director** may do an act, the **Director** may, when doing the act, seek and consider information or documents from any person, and may consult with other **City** employees, legal counsel, or other advisors, all as the **Director** considers necessary.

2.4 Where this by-law provides that the **Director** may do an act, it may be done by a person authorized by the **Director** to do the act.

2.5 Within five (5) years after this by-law is passed, **Council** will ensure that a review of this by-law is undertaken and will pass a resolution declaring whether a revision to this by-law is needed. Thereafter, **Council** will further review and pass a resolution every five (5) years after the previous resolution was passed.

3.0 Designation of Services

3.1 A **community benefits charge** may be imposed to recover:

- (a) **capital costs** of **services** not provided for under subsection 2(4) of the *Development Charges Act*, and
- (b) **capital costs** related to **services** identified in the **City's community benefits charge strategy**.

4.0 Payment of a Community Benefits Charge

4.1 A **community benefits charge** is payable by the **owner** of land proposed for **development** in the amounts set out in this by-law where:

- (a) the land proposed for **development** or **redevelopment** is located in the area described in subsection 5.1 of this by-law; and
- (b) the proposed **development** or **redevelopment** requires any of the approvals as set out in subsection 6.1 of this by-law.

5.0 Application of this By-Law

5.1 Subject to subsection 5.2 of this by-law, this by-law applies to all lands within the geographic boundaries of the City of Kingston.

5.2 This by-law does not apply to lands that are owned by and used for the purposes of:

- (a) the **City**, or a **local board** thereof;
- (b) a Board of Education; or
- (c) the County of Frontenac, or a **local board** thereof.

6.0 Approvals for Development or Redevelopment

6.1 A **community benefits charge** may be imposed only with respect to **development or redevelopment** that requires one or more of the following approvals:

- (a) the passing of a **zoning by-law** or an amendment to a **zoning by-law** under section 34 of the *Planning Act*;
- (b) the approval of a minor variance under section 45 of the *Planning Act*;
- (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
- (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
- (e) a consent under section 53 of the *Planning Act*;
- (f) the approval of a description under section 9 of the *Condominium Act, 1998*, S.O. 1998, c. 19; or
- (g) the issuance of a permit under the *Building Code Act, 1992*, S.O. 1992, c. 23 in relation to a **building or structure**.

7.0 Exemptions

7.1 Despite the provisions of this by-law, a **community benefits charge** will not be imposed with respect to the following types of **development or redevelopment**:

- (a) **development** of a proposed **building or structure** with fewer than five (5) **storeys** at or above ground;
- (b) **development** of a proposed **building or structure** with fewer than ten (10) **residential units**;
- (c) **redevelopment** of a **building or structure** that exists as of the date of passing this by-law that will have fewer than five (5) **storeys** at or above ground after the **redevelopment**;

- (d) **redevelopment** that proposes to add fewer than ten (10) **residential units** to a **building** or **structure** that exists as of the date of passing of this by-law; or
 - (e) such types of **development** or **redevelopment** as are **prescribed**.
- 7.2 Despite the provisions of this by-law, a **community benefits charge** will not be imposed with respect to:
- (a) **development** or **redevelopment** of a **building** or **structure** intended for use as a long-term care home within the meaning of the *Fixing Long-Term Care Act, 2021*, S.O. 2021, c.39, sched 1;
 - (b) **development** or **redevelopment** of a **building** or **structure** intended for use as a retirement home within the meaning of subsection 2(1) of the *Retirement Homes Act, 2010*, S.O. 2010, c. 11;
 - (c) **development** or **redevelopment** of a **building** or **structure** intended for use by any of the following post-secondary institutions for the objects of the institution:
 - (i) a university in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario;
 - (ii) a college or university federated or affiliated with a university described in subparagraph (i); or
 - (iii) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*, S.O. 2017, c. 34, Sched 20;
 - (d) **development** or **redevelopment** of a **building** or **structure** intended for use as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion;
 - (e) **development** or **redevelopment** of a **building** or **structure** intended for use as a hospice to provide end-of-life-care;
 - (f) **development** or **redevelopment** of a **building** or **structure** intended for use as residential premises by any of the following entities:

- (i) a corporation to which the *Not-for-Profit Corporations Act, 2010*, S.O. 2010, c. 15 applies, that is in good standing under that Act and whose primary objective is to provide housing;
 - (ii) a corporation without share capital to which the *Canada Not-for-profit Corporations Act*, S.C. 2009, c. 23 applies, that is in good standing under that Act and whose primary objective is to provide housing;
 - (iii) a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*, R.S.O. 1990, c. C.35; or
- (g) **affordable residential units**;
- (h) **development** or **redevelopment** of lands that are the subject of a by-law described in the repealed subsection 37(1) of the *Planning Act* unless:
- (i) the by-law is amended to remove any requirement to provide facilities, services or matters that were included under the repealed subsection 37(1);
 - (ii) the by-law is repealed; or
 - (iii) an increase in the number of previously approved **residential units** is proposed.

7.3 Despite the provisions of this by-law, a **community benefits charge** will not be imposed with respect to attainable residential units, as defined in subsection 4.1(1) of the *Development Charges Act*. This subsection 7.3 will come into effect on the date when subsection 37(32.1) of the *Planning Act* comes into effect.

8.0 Amount of a Community Benefits Charge

8.1 The amount of a **community benefits charge** payable pursuant to this by-law will be determined in accordance with Schedule "A" to this by-law.

8.2 Where **development** or **redevelopment** proposes multiple uses within a **building** or **structure** and the **owner** has provided satisfactory evidence to the **Director** that it includes one (1) or more of the exempted types described in section 7.2 of this by-law, the **community benefits charge** otherwise

payable for the **development** or **redevelopment** will be reduced by an amount attributed to the number of **residential units** in the exempted types of **development**.

9.0 In-kind Contributions

- 9.1 At the **City's** sole discretion, an **owner** may provide to the **City services** in lieu, or partially in lieu, of a **community benefits charge**, that would otherwise be payable.
- 9.2 In order for in-kind contributions to be considered, an application for consideration of in-kind contributions must be submitted to the **City** with supporting documentation as to the suggested value thereof.
- 9.3 In-kind contributions pursuant to this section 9.0 are subject to approval by **Council**. The determination of **Council** as to whether in-kind contributions will be accepted in lieu of a **community benefits charge** is final and binding.
- 9.4 The value attributed to an in-kind contribution will be determined based on one (1) or more valuations prepared by an independent professional third party at the **owner's** expense and in a form satisfactory to the **City**.
- 9.5 The value attributed to an in-kind contribution determined under subsection 9.4 of this by-law will be deducted from the total **community benefits charge** the **owner** would otherwise be required to pay under this by-law.
- 9.6 The **owner** will be required to enter into an agreement with the **City**, to the **City's** satisfaction, addressing the provision of the in-kind contribution. At the **owner's** sole expense, the agreement will be registered by the **City** against the land to which it applies, and the **City** is entitled to enforce the agreement against the **owner** and all subsequent owners of the land.

10.0 Time of Payment of Community Benefits Charge

- 10.1 A **community benefits charge** imposed under this by-law will be payable by the **owner** prior to the issuance of any building permit for the proposed **development** or **redevelopment**.
- 10.2 If a **development** or **redevelopment** is to be constructed in phases, each phase is deemed to be a separate **development** or **redevelopment** for the purposes of this by-law and the amount of the **community benefits charge**

for each phase will be payable prior to the issuance of a building permit for that phase.

11.0 Transition

- 11.1 Any exemptions and/or direction provided by **Council** with respect to site-specific **community benefits charges** prior to the enactment of this by-law will continue to apply.
- 11.2 Where an increase in the previously approved number of **residential units** is proposed on lands that are subject to a by-law described in the repealed subsection 37(1) of the **Planning Act**, the amount of **community benefits charge** payable to the **City** under this by-law will be calculated in accordance with this by-law based on the number of net new **residential units**.

12.0 Interest on Refunds

- 12.1 Where the **City** is required to make a refund pursuant to subsection 37(27) of the **Planning Act**, the **City** will pay interest on the refund in accordance with subsections 37(28) and 37(29) of the **Planning Act** at the **prescribed** minimum interest rate, from the day the amount was paid to the **City** to the day it is refunded.

13.0 Prohibition

- 13.1 No person will construct a **building** or **structure** on land proposed for **development** or **redevelopment** as described in this by-law, and no building permit will be issued, unless the **community benefits charge** required by this by-law, including any approved in-kind contributions, have been made or satisfactory arrangements for the payment or their provision have been made.

14.0 Miscellaneous

- 14.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of **Council** in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.
- 14.2 Except as otherwise set out in this by-law, this by-law will come into force and take effect on the date of its passing.

Given First and Second Readings: [Meeting Date]

Given Third Reading and Passed: [Meeting Date]

Janet Jaynes

Acting City Clerk

Bryan Paterson

Mayor

SCHEDULE “A”

Calculation of a Community Benefits Charge

Table 1- Schedule of Community Benefits Charge

Residential Unit Type	Community Benefit Charge per Residential Unit
2 Bedrooms or more	\$856.00
1 Bedroom or less	\$598.00