

Report for Public Consultation

Prepared by Hemson for the Town of Fort Erie

Community Benefits Charge Strategy

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List of Acronyms

Act Planning Act (Ontario), R.S.O. 1990, c. P.13

BTE Benefit to Existing

CBC Community Benefits Charge

DC Development Charges

DCA Development Charges Act, 1997

GFA Gross Floor Area

GFT Growth Funding Tool

PPU Persons Per Unit

Executive Summary

A. Purpose of 2023 CBC Strategy

i. What is a Community Benefits Charge?

A Community Benefits Charge (CBC) is a new funding tool authorized under the *Ontario Planning Act, 1990* (the Act) that allows municipalities to impose a charge against higher density development to pay for development-related capital costs. The CBC provisions replace former section 37 height and density bonusing provisions in the Act, subject to transition rules.

Municipalities can use CBCs to pay for “facilities, services, and other matters attributable to the anticipated development and redevelopment to which the community benefits charge by-law would relate.” As such, they can be used together with development charges (DCs) and parkland and other public recreation amenities contributions by developers under section 42 of the Act. Provided they are used to fund development-related costs that are not also funded by DCs and section 42 contributions, the scope of CBCs is quite broad.

Only local municipalities — single- and lower-tier municipalities — can impose CBCs.

ii. Legislative Context

This Town of Fort Erie 2023 Community Benefits Charge Strategy (CBC Strategy) is presented as part of the process to lead to the approval of a CBC By-law in compliance with the Act. The Strategy is prepared in accordance with the Act and associated Ontario Regulations 509/20 (O.Reg. 509/20), including the amendments that came into force on September 18, 2020 and November 28, 2022.

iii. CBCs Levied on Higher Density Development

A CBC can only be levied against mid- to high-density development, limited by the Act to buildings that are:

- five or more storeys, **and**
- contain 10 or more residential units.

Note that a mixed use development, a building that contains both residential and non-residential uses, can be subject to a CBC if it meets these criteria.

Ontario Regulation 509/20 provides for a number of exemptions from the payment of a CBC, namely:

- long-term care & retirement homes;
- colleges, universities and post-secondary indigenous institutes;
- Royal Canadian Legion buildings or structures;
- hospices for end of life care; and
- non-profit housing.

iv. Maximum Amount of CBC

Subsection 37(32) of the Act, together with O.Reg. 509/20, prescribe that the maximum CBC that is payable in any particular case is 4% of the land value as of the day before issuance of the building permit.

Reductions to the 4% cap are required in cases where existing buildings and structures remain on the land after the development or redevelopment. In such cases, the reduction to be applied is the ratio of the floor area of new buildings and structures to existing buildings and structures.

Bill 23, the *More Homes Built Faster Act, 2022*, introduced discounts to CBCs for affordable residential units and attainable residential units, as well as affordable housing units required through inclusionary zoning. However, these new discount provisions in s.37 of the Planning Act are not yet in force.

B. CBC Strategy

Several key steps must be undertaken prior to passing a CBC by-law. They include preparing a CBC Strategy, through which the Town must:

- prepare a development (growth) forecast;
- determine the increased infrastructure need arising from development;
- estimate the capital costs of providing the necessary infrastructure;
- determine the share of these costs attributed to CBC development, by identifying and deducting:
 - excess capacity;
 - benefit to existing development; and
 - grants, subsidies or other contributions.

C. Development Forecast

Over the 10-year planning period from 2023-2032, Fort Erie is anticipated to grow by about 454 occupied dwellings in buildings that would be subject to a CBC (see Section 4).

The development forecast has been informed by Niagara Region's recent Municipal Comprehensive Review and identified unit growth for the Town over the 2021-2051 period as well as known development applications. It should be noted that the Town is currently in the process of updating its DC Background Study. The development forecast presented as part of the Strategy may be refined as part of this process.

D. CBC Capital Needs Exceed Revenue Forecast

The estimated CBC eligible costs of the development-related capital program total \$3.97 million (see Table 1) over the 10-year period 2023-2032.

The estimated CBC revenues, over the same 10-year period, range from a low of \$438,500 to a high of \$908,600, based on the 4% legislated cap. As such, the CBC

eligible costs exceed the anticipated 10-year revenue potential by a significant margin, supporting the application of a CBC charge that is based on the 4% cap or some other rate variation.

E. Application of CBCs

It is recommended that the Town implement CBCs as a per cent of land value charge. As per the legislation, the value of the land to which the charge applies is determined as the value on the day before the issuance of a building permit, or the first building permit if the development requires multiple permits. It is proposed that the charges will apply on all eligible development, excluding those made exempt from CBCs under subsection 37(4)(e) of the Act and section 1 of O. Reg. 509/20.

1. Introduction

This Town of Fort Erie Community Benefits Charge (CBC) Strategy is presented as part of a process to lead to the approval of a new community benefits charge by-law in compliance with the *Planning Act, 1990* (the Act).

CBCs are a relatively new revenue source for municipalities. Generally, the framework for CBCs is as follows:

- CBCs can only be used to fund development-related (or growth-related) capital costs. There are no restrictions on which services can be funded through CBCs;
- Capital projects identified for CBC funding can be funded by other sources of revenue, including development charges and parkland dedication, provided revenue sources do not overlap (i.e. no “doubled counting”);
- In-kind contributions are permitted in lieu of CBCs though municipalities may require an agreement with a land owner in such cases and may register agreements on title;
- CBCs are “capped” at 4% of the land value;
- CBCs can only be imposed on development or redevelopments with 5 or more storeys and 10 or more residential units; and
- Only single-tier and lower-tier municipalities can charge CBCs.

A. CBC Strategy Requirements

Subsection 37(9) of the Act and section 2 of O. Reg. 509/20 require that a community benefits charge strategy shall:

- (a) include estimates of the anticipated amount, type and location of development and redevelopment with respect to which community benefits charges will be imposed;
- (b) include 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;
- (c) identify the excess capacity that exists in relation to the facilities, services and matters referred to in clause (b);
- (d) include estimates of the extent to which an increase in a facility, service or matter referred to in clause (b) would benefit existing development;
- (e) include estimates of the capital costs necessary to provide the facilities, services and matters referred to in clause (b); and
- (f) identify 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 referred to in clause (e).

This Strategy presents the estimated CBC development-related net capital costs attributable to CBC eligible development that is forecast to occur in the Town. The apportionment of the net capital costs among various development-related funding sources, including development charges, parkland dedication and other sources, is also provided.

B. Legislative Context

The CBC section of the Act has replaced what was previously referred to as section 37 “Increased Density” or “Density Bonusing”. The change was finalized through the *COVID-19 Economic Recovery Act, 2020*, which built on the *More Homes, More Choice Act, 2019* and *Plan to Build Ontario Together Act, 2019*. In November 2022, the government passed Bill 23, the *More*

Homes Built Faster Act, 2022 which proposed significant changes to the land use approval system with the goal of constructing 1.5 million new homes in Ontario by 2031. The CBC changes brought about by Bill 23 are:

- Reductions to the 4% cap, which are required in cases where existing buildings and structures remain on the land after the development or redevelopment. In such cases, the reduction to be applied is the ratio of the floor area of new buildings and structures to existing buildings and structures.
- Discounts to CBCs for affordable residential units and attainable residential units, as well as affordable housing units required through inclusionary zoning. However, these new discount provisions of the Act are not yet in force.

The current section 37 authorizes municipalities to impose CBCs against land to pay for the capital costs of facilities, services and matters required because of development or redevelopment in the municipality. It also sets out the relationship between CBCs and other development-related funding tools, including development charges levied under the *Development Charges Act, 1997*. Capital costs identified for funding from development charges or parkland dedication cannot be funded from CBCs.

The current legislation also sets out requirements for adopting a CBC By-law, including that:

- consultation with the public is required but not defined;
- only one CBC By-law is allowed to be in force at a time;
- notice of the passage of the CBC By-law must be given (in a manner similar to a development charges by-law); and
- there is a right of appeal of the By-law to the Ontario Land Tribunal.

Moreover, various administrative and reporting requirements must be implemented:

- A municipality with a CBC By-law must pay all money raised by the by-law into a “special account”;
- At the beginning of each calendar year a municipality must “spend or allocate” at least 60% of the monies in the special account;
- A municipality with a CBC By-law must maintain a list of at least three appraisers; and
- An annual report must be produced showing the opening/closing balances of the special account and all transactions.

Finally, the CBC Strategy must be reviewed every 5 years to determine if the CBC by-law needs to be updated.

C. Consultation of Proposed CBCs in Fort Erie

The Act requires that municipalities consult with the public when implementing a CBC by-law. Accordingly, the Town will make this CBC Strategy and a draft CBC By-law available for public comment prior to Council’s consideration and passage of the By-law. A public meeting of Council is proposed to be held on July 10, 2023 following the public release of the CBC Strategy.

Following completion of this consultation process, it is proposed that Council review the Strategy and the comments received during the consultation process, before adopting the new CBC By-law in late July 2023.

The remainder of the Strategy sets out the information and analysis upon which the proposed CBC is based.

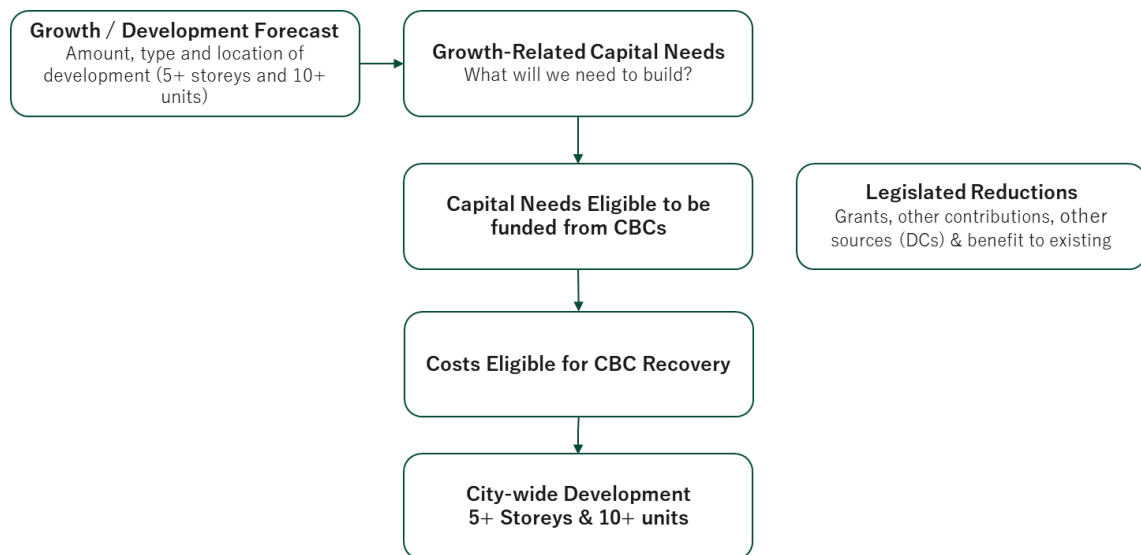
2. Purpose of the 2023 Community Benefits Charge Strategy

This section describes the methodology for determining the CBC rate for the Town and provides details on the capital works and service categories used to establish CBC eligible costs.

A. Key Steps in Determining CBCs

As shown in Figure 1, the Act requires that the CBC Strategy include various components in order to validate the resulting charge.

Figure 1: Key Steps in Determining CBCs



B. Proposed Methodology and Approach

The Act does not specify the method by which a CBC is levied. In developing a CBC, a municipality can consider charges based on a percentage of land value, a per-unit charge, or a charge based on gross floor area. Most municipalities with CBCs have adopted the first option, based on a charge calculated as 4% of land value at the time of first building permit issuance and imposed on all eligible development and redevelopment in the municipality.

This Town-wide approach using a 4% land value charge adjusts for variability in land values across geographies and building typologies.

The CBC capital program, summarized in the section below and in Section 4, was developed in consultation with Town staff and relies on previous work completed for the Town's capital budget and forecast, the 2018 DC Background Study, various master servicing plans and similar plans and forecasts.

As required by the legislation, all CBC revenues will be paid into a single reserve fund (or special account). In each calendar year, the Town must allocate or spend at least 60% of the monies in the special account at the beginning of the year. A separate policy, outside the framework of this Strategy, will be developed to prioritize CBC project allocation and spending.

The CBC Strategy serves to substantiate levying a 4% CBC and to satisfy the legislative and regulatory requirements, and is a point in time analysis of eligible capital programs and projects to which the Town may allocate CBC monies. From a budgeting perspective, the CBC Strategy does not represent any expression of Council policy, prioritization, or other formal expression of intent to fund or allocate any funds specific services, facilities, or projects set out in the CBC capital program.

C. CBC Capital Program Summary

The gross cost of the CBC capital program of projects eligible for partial or full funding from CBCs is \$64.26 million. Approximately \$60.28 million of this gross capital cost is ineligible for CBC funding, having been removed as anticipated grant funding, excess capacity, costs that benefit existing residents of the Town (BTE shares), or costs to be funded from other growth funding tools such as development charges.

Approximately \$9.51 million of grants or subsidies have been identified to cover some costs of the gross program. Replacement or benefit to existing shares removed from the eligible recovery costs total \$22.66 million. Of the remaining \$32.09 million:

- \$3.97 million is considered eligible for CBC funding and benefits development in buildings of five or more storeys and containing 10 or more residential units; and
- \$28.11 million will be funded from other revenue sources.

The capital program is based on service levels planned for and provided by the Town. These service levels are not exclusively tied to a particular time horizon. The capital facilities set out herein are a snapshot of what the Town currently needs to fund to maintain those service levels during the 10-year planning period of 2023-2032. As projects are completed, the Town will continue with additional capital projects to provide the same or similar service levels, and therefore the capital facilities listed will continue to evolve.

The CBC capital program is summarized in Table 1 below.

TABLE 1
TOWN OF FORT ERIE
SUMMARY OF CBC CAPITAL PROGRAM (\$000)

Service	Gross Project Cost	Grants / Subsidies / Other Recoveries	Net Cost	Replacement & BTE (\$)	Total Development Related Cost	DC Funding	Other Funding	Total CBC Related Costs
1.0 CBC By-law Reviews & Strategy Updates	\$200	\$0	\$200	\$0	\$200	\$0	\$0	\$200
2.0 Public Realm and Urban Amenities	\$7,945	\$0	\$7,945	\$0	\$7,945	\$0	\$5,916	\$2,029
3.0 Active Transportation	\$53,000	\$9,511	\$43,489	\$21,580	\$21,909	\$0	\$20,316	\$1,593
4.0 Affordable Housing	\$500	\$0	\$500	\$373	\$127	\$0	\$113	\$14
5.0 Parking	\$400	\$0	\$400	\$0	\$400	\$0	\$371	\$29
6.0 Administration	\$2,212	\$0	\$2,212	\$706	\$1,506	\$0	\$1,396	\$109
TOTAL COST	\$64,257	\$9,511	\$54,746	\$22,659	\$32,087	\$0	\$28,112	\$3,974

D. A Town-Wide Rate is Proposed

Consideration was given as to whether or not CBCs should be implemented on a Town-wide or area-specific basis. Unlike DC by-laws, the Act states that municipalities may only impose one CBC by-law.

Although, there is nothing in the Act that prohibits the Town from imposing area-specific CBCs within a single by-law, the legislation appears to promote a municipal-wide approach as the land value cap results in a form of area rating; land values typically vary across a municipality so the applicable CBC will reflect area differences. Moreover, a single, uniform Town-wide charge is most suitable in Fort Erie as most services included in the CBC capital program are planned for on a Town-wide basis.

E. Relationship to Other Growth Funding Tools and Ongoing Studies

Hemson is currently preparing the Town's 2023 DC Background Study and related By-law which is anticipated to be completed in November 2023.

This CBC Strategy may be "refreshed" once the 2023 DC Background Study is completed. The projects identified in this Strategy account for any known contributions from other growth funding tools such as development charges and parkland dedication revenues.

F. Implementation and Administration

The implementation and administration of the CBC will be determined by the CBC By-law, prevailing legislation and the CBC policies and practices to be established by Council.

3. Development Forecast

This section describes the methodology and results of the development forecast that is used to determine the potential CBC revenue and forms the basis of the development-related capital program.

The forecasts in this section set out the amount, type and location of development to which the CBC applies, in line with the requirements of *O.Reg. 509/20* s.2(a).

A. Proposed 10-Year Planning Horizon

The timeframe for the CBC development forecast and CBC capital program in this Strategy is 2023-2032. This 10-year planning period is consistent with the Town's 10-year capital development forecast and aligns with the 10-year planning horizon to be used in the forthcoming 2023 DC Background Study.

B. Forecast Sources and Key Assumptions

The Niagara Official Plan (the Official Plan prepared by Niagara Region) was approved and came into effect on November 4, 2022. The new Official Plan establishes the long-term growth outlook for the Region based on a 30-year time horizon and population and employment forecasts prescribed by the Provincial Plan *A Place to Grow: Growth Plan for the Greater Golden Horseshoe* (the Growth Plan). The 2051 Land Needs Assessment informed the growth allocations between the Region's local area municipalities, including the Town of Fort Erie. Based on the updated Land Needs Assessment, it is anticipated that the Town will grow by 7,558 occupied dwellings between 2021-2051. These estimates, along with known development application data, have formed the basis of the development forecast for the CBC Strategy.

It should be noted that the Town is currently in the process of updating its DC Background Study. The development forecast presented as part of the CBC Strategy may be refined as part of this process.

C. Forecast Results

Table 2 provides a summary of the forecast housing units, associated population in new units and employment growth over the 10-year planning period of 2023-2032. Approximately 2,980 units are anticipated to be constructed over the planning period, of which 454 units are expected to be subject to CBCs.

Table 2 also shows the calculation of persons in units subject to CBCs as a percentage of persons in all units. This calculation uses the occupancy factors or “persons per unit” (PPU), consistent with the assumptions in the Town’s 2018 DC Background Study. The average apartment unit PPU is 1.50 and when applied by the total 10-year CBC unit start forecast (454), results in an estimate of 681 persons in units subject to a CBC. This represents 11% of the overall 10-year forecast of people in all unit starts (6,163) which has been informed by the Niagara Region MCR allocations for the Town.

This 11% figure is used to inform the CBC-eligible percentage of projects that are anticipated to benefit all residential and mixed-use development, as shown in Section 4. For certain projects, a non-residential benefit is recognized and an appropriate reduction from the CBC eligible costs is applied.

The 10-year non-residential forecast is informed by the relationship between residential and non-residential employment growth identified in the 2018 DC Background Study and the new residential forecast used for the purposes of this analysis. The 10-year forecasted population in new dwelling units plus place of work employment totals approximately 9,370. The CBC eligible share of projects which have a residential and non-residential benefit is 7%.

Table 2: 2023-2032 Forecast Growth

Residential	Single/Semi	Row	Apartment	Total
Units Subject to CBC	0	0	454	454
All Units	1,310	870	800	2,980
PPU Assumptions	2.59	1.81	1.50	
Persons in Units Subject to CBCs	0	0	681	681
Persons in All Units	3,390	1,573	1,200	6,163
% of Persons in Units Subject to CBCs (Residential Only)				11%
Non-Residential				Total
Employment Growth				3,211
Residential & Non-Residential Allocation				
Total Gross Population & Employment Growth				9,374
% of Persons in Units Subject to CBCs (Residential/Non-Residential)				7%

4. CBC Capital Program

Before passing a CBC by-law, the Act requires that municipalities prepare a CBC Strategy that identifies the facilities, services and matters that will be funded with CBCs. The Act does not prescribe the specific facilities, services or matters to which CBC funding may be allocated.

A. Facilities, Services, and Matters Considered

The following facilities, services and matters have been identified, in consultation with Town staff, as being required, in whole or in part, to meet the increased need for service arising from the CBC-eligible development forecast in Section 4:

- CBC By-law Reviews and Strategy Updates;
- Public Realm and Urban Amenities;
- Active Transportation;
- Affordable Housing;
- Parking; and
- Administration.

For each service, the Town anticipates development-related costs which are, fully or partially, driven by mid and high-density residential and mixed-use development. The identified CBC-eligible project costs for these services are beyond the costs anticipated to be funded through other growth funding tools, including development charges and parkland dedication.

The CBC capital program is a point-in-time analysis of the needs anticipated over the 2023 – 2032 planning period. It is recognized that these needs may change over time through the Town’s normal annual budgeting processes. While certain projects are listed within the CBC capital program, the identified capital project listings do not preclude the Town from assigning CBC funds to another facility or project under that service.

The description of each service below covers the following matters:

- Service Description;
- Service Delivery and Service Levels Consideration;
- Estimate of Need;
- Consideration of Excess Capacity;
- Capital Cost;
- Identification of any Anticipated Capital Grants, Subsidies or Other Contributions;
- Consideration of Benefit to Existing;
- Relation to funding from DCs and other funding tools (if applicable); and
- Share of Net Capital Costs related to CBC Eligible Developments.

The following sections provides the detailed analysis undertaken to establish the development-related capital costs eligible for CBC funding for each service.

B. CBC By-Law Reviews and Strategy Updates and Implementation

i. Service Description

The cost of the CBC Strategy is eligible for CBC funding under the Act and included in this service is a provision to review the CBC by-law every five years and undertake public consultation as appropriate and pursuant to the Act. Costs related to the review include updating the CBC Strategy and administering the CBC By-law, including resolving disputes and delivering the CBC capital program.

ii. Service Delivery and Service Levels Consideration

Inclusion of the CBC Strategy and implementation is intended to address new requirements of administering the program in response to growth.

iii. Estimate of Need

Included in the cost provision are regular updates to the CBC Strategy as well as the cost of land appraisals, dispute resolutions, legal costs, and other costs related to implementing and administering the Strategy and By-law. While the capital program represents a point-in-time analysis of the anticipated CBC-eligible project costs over the 2023-2032 period, similar needs are anticipated to continue beyond the 10-year planning horizon.

iv. Consideration of Excess Capacity

No excess capacity exists for this service.

v. Capital Cost

The gross cost included in the capital program totals \$200,000 over the 10-year planning period.

vi. Identification of Anticipated Capital Grants, Subsidies or Other Contributions

There are no grants, subsidies or other contributions identified for this service area.

vii. Consideration of Benefit to Existing

No replacement or benefit to existing shares have been identified for this service area as the benefits of the CBC Strategy are attributable to CBC-eligible development.

viii. Relation to Funding from Other GFT (if applicable)

No development charges or other growth funding tools have been identified for this service area.

ix. Share of Net Capital Costs related to CBC Eligible Developments

The entire cost of the CBC Strategy implementation of \$200,000 is deemed eligible for funding through CBCs.

TABLE 3
TOWN OF FORT ERIE
2023 COMMUNITY BENEFITS CHARGE STRATEGY
10 YEAR DEVELOPMENT-RELATED CAPITAL PROGRAM

Project Description	Timing	Gross Cost	Grants, Subsidies & Other Recoveries	Net Cost	Benefit to Existing (%)	Benefit to Existing (\$)	Total Development Related Cost	DC Share (%)	Potential DC Funded	Remaining Development Related	CBC Share (%)	CBC Share (\$)	Other Funding*
1.0 CBC BY-LAW REVIEWS & STRATEGY UPDATES													
1.1 Community Benefits Strategies Review	2023-2032	\$100,000	\$0	\$100,000	0%	\$0	\$100,000	0%	\$0	\$100,000	100%	\$100,000	\$0
1.2 Implementation of By-law and Appraisal Funding	2023-2032	\$100,000	\$0	\$100,000	0%	\$0	\$100,000	0%	\$0	\$100,000	100%	\$100,000	\$0
TOTAL CBC BY-LAW REVIEWS & STRATEGY UPDATES		\$200,000	\$0	\$200,000		\$0	\$200,000		\$0	\$200,000		\$200,000	\$0

C. Public Realm and Urban Amenities

i. Service Description

The Public Realm and Urban Amenities capital program covers the cost to complete streetscaping improvements and various park amenities.

As high-density development occurs in the Town, the need for public open space intensifies. DCs, *Planning Act*s.⁴² parkland conveyance tools, and other growth funding tools will likely not be sufficient to fully fund parks needs arising from high-density residential development. CBCs provide a mechanism for funding a share of the increase in parks needs arising from development.

The public realm and urban amenities growth-related capital program includes the cost to develop new trails and park washrooms as well as acquire new parkland that will benefit CBC-eligible development over the next decade.

ii. Service Delivery and Service Levels Consideration

As the Town continues to grow, particularly through redevelopment and intensification, there is a growing need to invest in the public realm. The need for public open space will also intensify.

iii. Estimate of Need

The need for the public realm projects is based on four planned capital projects:

- Streetscaping improvements for \$2.50 million. This provision is based on servicing costs of \$2,500/linear metre for 1,000 metres of upgrades over the 10-year period. The upgrades include additional sidewalk width, crosswalks, street furniture, lighting and other improvements;

- Trail acquisition and development for \$1.54 million. This provision is based on a costs of \$103,000/linear kilometre for 15 kilometres of trails over the 10-year period. The cost per liner kilometre is sourced from the 2018 DC Background Study, indexed to current day dollars;
- The addition of park washrooms for \$2.50 million. This provision is based on recent cost estimates of \$500,000 per park washroom and accounts for the addition of five new washrooms over the 10-year planning period; and
- Parkland Acquisition for \$1.40 million. This provision is based on the Town’s current Parkland Dedication Bylaw 69-08 which identifies a need of 5 hectares (or 12 acres) per 1,000 people. Using the forecast population growth in CBC eligible units (681 people), 2.6 hectares (or 6.4 acres) of new parkland is required over the planning period which is valued at \$1.40 million.

High-density development places a demand for parks and associated amenities in built up areas. Decreased access to private open space leads to higher use of new and existing parks in medium and high-density neighbourhoods. Parks now more than ever are seen as a vital component of a complete community.

While the Public Realm and Urban Amenities CBC capital program represents a point-in-time analysis of the anticipated CBC-eligible project costs over the 2023-2032 period, similar service levels are anticipated to continue to be provided beyond the 10-year planning horizon.

The need for parks, driven by CBC eligible developments in the Town, is based on the anticipated population growth in these units and the associated demand for parkland over and above historical service level standards. The capital program assumes the need to construct 6.4 acres of parkland valued at \$218,000 per acre, only related to future high-density

development. As such, the capital costs are fully attributable to CBC eligible developments.

iv. Consideration of Excess Capacity

No excess capacity exists for this service.

v. Capital Cost

The gross capital cost of the service identified is \$7.95 million.

vi. Identification of Anticipated Capital Grants, Subsidies or Other Contributions

No grants, subsidies or other contributions have been identified for this service.

vii. Consideration of Benefit to Existing

Benefit to existing shares have not been identified for this service area as the costs included are entirely related to future development.

viii. Relation to Funding from GFT (if applicable) and Other Funding

Approximately \$5.92 million is not eligible for CBC funding will be considered for DC funding as part of the 2023 DC Background Study update and/or funding through cash in lieu of parkland monies.

ix. Share of Net Capital Costs related to CBC Eligible Developments

In total, \$2.03 million is included in the CBC-related cost and is eligible for recovery from CBC developments. This is calculated using a 7% eligible share (\$181,700) for streetscaping improvements, as it benefits both residential and non-residential development; an 11% share for the remaining projects related to parks, as it benefits residential development; and a 100% share for parkland, as the need has only been attributed to CBC eligible development.

TABLE 4
TOWN OF FORT ERIE
2023 COMMUNITY BENEFITS CHARGE STRATEGY
10 YEAR DEVELOPMENT-RELATED CAPITAL PROGRAM

Project Description	Timing	Gross Cost	Grants, Subsidies & Other Recoveries	Net Cost	Benefit to Existing (%)	Benefit to Existing (\$)	Total Development Related Cost	DC Share (%)	Potential DC Funded	Remaining Development Related	CBC Share (%)	CBC Share (\$)	Other Funding*
2.0 PUBLIC REALM AND URBAN AMENITIES													
2.1 Streetscaping Improvements	2023-2032	\$2,500,000	\$0	\$2,500,000	0%	\$0	\$2,500,000	0%	\$0	\$2,500,000	7%	\$181,743	\$2,318,257
2.2 Trail Acquisition and Development	2023-2032	\$1,545,000	\$0	\$1,545,000	0%	\$0	\$1,545,000	0%	\$0	\$1,545,000	11%	\$170,835	\$1,374,165
2.3 Park Washrooms	2023-2032	\$2,500,000	\$0	\$2,500,000	0%	\$0	\$2,500,000	0%	\$0	\$2,500,000	11%	\$276,433	\$2,223,567
2.4 Parkland	2023-2032	\$1,400,000	\$0	\$1,400,000	0%	\$0	\$1,400,000	0%	\$0	\$1,400,000	100%	\$1,400,000	\$0
TOTAL PUBLIC REALM AND URBAN AMENITIES		\$7,945,000	\$0	\$7,945,000		\$0	\$7,945,000		\$0	\$7,945,000		\$2,029,011	\$5,915,989

D. Active Transportation

i. Service Description

This service covers Town investments around Active Transportation (including bike lanes and trails) to ensure appropriate infrastructure is in place to support the high-density development that is planned for these areas. The investments are a high priority for the Town.

ii. Service Delivery and Service Levels Consideration

Fort Erie is a vibrant town that continues to grow, increasingly through redevelopment and intensification. There is a need to identify and plan for how best to expand the capacity of the service to accommodate increased needs. Council's intentions to promote active transportation in locations of intensification and high-density redevelopment have been approved through the 2019 Active Transportation Master Plan (ATMP), and Official Plan policies.

While active transportation initiatives have traditionally been funded through the DC By-law, it is now considered appropriate to partially fund them through the CBC as medium and high-density development will benefit from these initiatives.

iii. Estimate of Need

The need for additional Active Transportation driven by CBC-eligible development considers:

- Bike lanes for \$24.56 million. This provision is based on previous servicing costs from the ATMP (2019) and indexed to 2023 dollars over the 10-year period;
- Bike racks for \$40,000. This provision is based on previous servicing costs of \$2,000/set for 20 sets over the 10-year period; and

- Sidewalk connections for \$28.40 million. This provision is based on previous servicing costs from the ATMP (2019) and indexed to 2023 dollars over the 10-year period. This provision would include new and widened sidewalks in the Town.

While the active transportation CBC capital program represents a point-in-time analysis of the anticipated CBC-eligible project costs over the 2023-2032 period, similar service levels are anticipated to continue to be provided by the Town beyond the 10-year planning horizon.

iv. Consideration of Excess Capacity

No excess capacity exists for this service. The costs included in the CBC Strategy relate to incremental needs arising from development over the 10-year planning horizon.

v. Capital Cost

The gross capital cost of the service identified is \$53.00 million.

vi. Identification of Anticipated Capital Grants, Subsidies or Other Contributions

Approximately \$9.51 million in grants, subsidies or other contributions from upper tier levels of government have been identified for this service, and removed from the net municipal costs.

vii. Consideration of Benefit to Existing

The capital costs included in the CBC Strategy for Active Transportation are driven by the incremental servicing needs arising from development.

Residents in high-density areas have higher active transportation mode shares which necessitates an incrementally higher investment in active transportation infrastructure to provide further capacity, new pathways as well as linkages to existing and planned active transportation corridors.

Recognizing this infrastructure will provide benefit to existing residents and other future development, the CBC strategy provides for an approximate one-third allocation, 30%, of the capital costs of bike lanes and racks to benefit to existing residents, and a 50% allocation of the capital costs of sidewalk connections to benefit to existing residents. The total benefit to existing shares of \$21.58 million have been removed from the development related costs.

viii. Relation to Funding from GFT (if applicable) and Other Funding

The development-related costs not eligible for CBC funding (\$20.32 million) will be considered for DC funding as part of the 2023 DC Background Study update.

ix. Share of Net Capital Costs related to CBC Eligible Developments

In total, a 7% share, or \$1.59 million of the capital costs, are included in the CBC-related cost and is eligible for recovery from CBC developments, as it benefits both residential and non-residential development.

TABLE 5
TOWN OF FORT ERIE
2023 COMMUNITY BENEFITS CHARGE STRATEGY
10 YEAR DEVELOPMENT-RELATED CAPITAL PROGRAM

Project Description	Timing	Gross Cost	Grants, Subsidies & Other Recoveries	Net Cost	Benefit to Existing (%)	Benefit to Existing (\$)	Total Development Related Cost	DC Share (%)	Potential DC Funded	Remaining Development Related	CBC Share (%)	CBC Share (\$)	Other Funding*
3.0 ACTIVE TRANSPORTATION													
3.1 Bike Lanes	2023-2032	\$24,560,000	\$6,526,000	\$18,034,000	30%	\$7,368,000	\$10,666,000	0%	\$0	\$10,666,000	7%	\$775,387	\$9,890,613
3.2 Bike Racks	2023-2032	\$40,000	\$0	\$40,000	30%	\$12,000	\$28,000	0%	\$0	\$28,000	7%	\$2,036	\$25,964
3.3 Sidewalk Connections	2023-2032	\$28,400,000	\$2,985,000	\$25,415,000	50%	\$14,200,000	\$11,215,000	0%	\$0	\$11,215,000	7%	\$815,297	\$10,399,703
TOTAL ACTIVE TRANSPORTATION		\$53,000,000	\$9,511,000	\$43,489,000		\$21,580,000	\$21,909,000		\$0	\$21,909,000		\$1,592,720	\$20,316,280

E. Affordable Housing

The need for affordable housing increases as a municipality's population grows. Under the Provincial statute, the Town lacks the ability to levy DCs for infrastructure or services related to housing. The Town however, is permitted to use CBCs as a growth-funding tool to create affordable housing units.

i. Service Delivery and Service Levels Consideration

Affordable Housing initiatives in Fort Erie are supported from a number of governing bodies, which includes the Province providing high level policy direction, and the Region of Niagara for the upper-tier provision of social and affordable housing. The Town of Fort Erie is responsible for maintaining its planning policy documents to conform to Provincial policies and encourages a range of housing types within the Town.

ii. Estimate of Need

The capital program has a general provision informed by the needs outlined in the Town of Fort Erie's Housing Action Strategy and the Town of Fort Erie Housing Needs Study (2019). The provision assumes a \$500,000 need over the 10-year period (\$250,000 every five years) to implement and establish a CIP (Community Improvement Plan) to provide grants in support of affordable housing initiatives. The Town will continue to review and allocate funds for this service as future studies are completed over the planning period.

iii. Consideration of Excess Capacity

No excess capacity exists for this service. The costs included in the CBC Strategy relate to incremental needs arising from development over the 10-year planning horizon.

iv. Gross Capital Cost

The gross capital cost of the service identified is \$500,000.

v. Identification of any Anticipated Capital Grants, Subsidies or Other Contributions

No grants, subsidies or other contributions have been identified for this service.

vi. Consideration of Benefit to Existing

A 75% share of benefit to existing shares have been applied to the Affordable Housing provision, totalling \$373,100, as a portion of these projects will benefit existing development in the Town based on shares of existing apartments and anticipated growth in CBC eligible units.

vii. Relation to Funding from GFT (if applicable) and Other Funding

No other development charges or other growth-funding tools have been identified for this service.

viii. Share of Net Capital Costs related to CBC Eligible Developments

The amount eligible for recovery from CBCs is 11% or \$14,000, as it only benefits residential growth.

TABLE 6
TOWN OF FORT ERIE
2023 COMMUNITY BENEFITS CHARGE STRATEGY
10 YEAR DEVELOPMENT-RELATED CAPITAL PROGRAM

Project Description	Timing	Gross Cost	Grants, Subsidies & Other Recoveries	Net Cost	Benefit to Existing (%)	Benefit to Existing (\$)	Total Development Related Cost	DC Share (%)	Potential DC Funded	Remaining Development Related	CBC Share (%)	CBC Share (\$)	Other Funding*
4.0 AFFORDABLE HOUSING													
4.1 Affordable Housing Implementation	2023-2032	\$500,000	\$0	\$500,000	75%	\$373,120	\$126,880	0%	\$0	\$126,880	11%	\$14,030	\$112,850
TOTAL AFFORDABLE HOUSING		\$500,000	\$0	\$500,000		\$373,120	\$126,880		\$0	\$126,880		\$14,030	\$112,850

F. Parking

i. Service Description

The Town of Fort Erie's Parking Services is responsible for planning, managing, rehabilitating and maintaining the Town's parking to meet the needs of the community.

ii. Service Delivery and Service Levels Consideration

As Fort Erie grows, there is a need identify and plan for how best to utilize existing Parking facilities and expand servicing capacity to accommodate increased needs. Although the cost of parking studies and facility expansion have traditionally been funded through the Town's DC By-law, the Parking service has recently been made ineligible for DC funding.

iii. Estimate of Need

The estimate of need is based on the capital projects identified in the Town's 2018 DC Background Study (indexed to 2023 dollars) as well as discussions with Town staff. It should be noted that Parking Services is now an ineligible DC service. These projects include:

- Provision for an additional parking lot (40-50 spaces) for \$250,000; and
- A provision for 10 new EV Charging Stations at \$15,000/station.

iv. Consideration of Excess Capacity

No excess capacity exists for this service. The costs included in the CBC Strategy relate to incremental needs arising from development over the 10-year planning horizon.

v. Capital Cost

The gross cost included in the capital program totals \$400,000 over the 10-year planning period.

vi. Identification of any Anticipated Capital Grants, Subsidies or Other Contributions

No grants, subsidies, or other recoveries have been identified for the new greenhouse facility.

vii. Consideration of Benefit to Existing

Benefit to existing shares have not been identified for this service area as the costs included are entirely related to future development.

viii. Relation to Funding from GFT (if applicable) and Other Funding

No other development charges or other growth-funding tools have been identified for this service. As mentioned, Parking is no longer eligible for DC funding.

ix. Share of Net Capital Costs Related to CBC Eligible Developments

In total, a 7% share, or \$29,100 of the parking capital costs, are included in the CBC-related cost and is eligible for recovery from CBC developments, as it benefits both residential and non-residential development.

TABLE 7
TOWN OF FORT ERIE
2023 COMMUNITY BENEFITS CHARGE STRATEGY
10 YEAR DEVELOPMENT-RELATED CAPITAL PROGRAM

Project Description	Timing	Gross Cost	Grants, Subsidies & Other Recoveries	Net Cost	Benefit to Existing (%)	Benefit to Existing (\$)	Total Development Related Cost	DC Share (%)	Potential DC Funded	Remaining Development Related	CBC Share (%)	CBC Share (\$)	Other Funding*
5.0 PARKING													
5.1 Parking Lot (40-50 Spaces)	2023-2032	\$250,000	\$0	\$250,000	0%	\$0	\$250,000	0%	\$0	\$250,000	7%	\$18,174	\$231,826
5.2 EV Charging Stations	2023-2032	\$150,000	\$0	\$150,000	0%	\$0	\$150,000	0%	\$0	\$150,000	7%	\$10,905	\$139,095
TOTAL PARKING		\$400,000	\$0	\$400,000		\$0	\$400,000		\$0	\$400,000		\$29,079	\$370,921

F. Administration

i. Service Description

Administration includes costs previously eligible for DC funding. These projects include growth-related studies for a range of Town services including Fire, Library, Planning, Finance etc.

i. Service Delivery and Service Levels Consideration

Prior to the recent changes to the *Development Charges Act* introduced through Bill 23, the Town used development charges to fund master plans and studies.

ii. Estimate of Need

Included in this service are costs of master plans and studies that address the increased need for service arising from development across the entire Town of Fort Erie. The studies address a broad range of Town services including: Community and Development Services, Financial Services, Library Services, Parks and Recreation Services and others.

iii. Consideration of Excess Capacity

No excess capacity exists for this service.

iv. Capital Cost

The gross cost included in the capital program totals \$2.21 million over the 10-year planning period.

v. Identification of any Anticipated Capital Grants, Subsidies or Other Contributions

There are no grants, subsidies or other contributions identified for this service area.

vi. Consideration of Benefit to Existing

The growth related capital costs have been reduced by benefit to existing shares as informed by the allocations made in the Town's 2018 DC Background Study for Administration Services capital projects. In total, \$706,300 is identified as an ineligible share and removed from the calculation.

vii. Relation to Funding from GFT (if applicable) and Other Funding

None of the identified projects have funding from other growth funding tools.

viii. Share of Net Capital Costs related to CBC Eligible Developments

The amount eligible for recovery from CBCs is 7% or \$109,500, which reflects that studies provide a benefit to both residential and non-residential development. The remaining \$1.40 million will be considered for funding from other sources.

TABLE 8

TOWN OF FORT ERIE
 2023 COMMUNITY BENEFITS CHARGE STRATEGY
 10 YEAR DEVELOPMENT-RELATED CAPITAL PROGRAM

Project Description	Timing	Gross Cost	Grants, Subsidies & Other Recoveries	Net Cost	Benefit to Existing (%)	Benefit to Existing (\$)	Total Development Related Cost	DC Share (%)	Potential DC Funded	Remaining Development Related	CBC Share (%)	CBC Share (\$)	Other Funding*
6.0 ADMINISTRATION													
6.1 Community and Development Services	2023-2032	\$1,102,000	\$0	\$1,102,000	26%	\$286,520	\$815,480	0%	\$0	\$815,480	7%	\$59,283	\$756,197
6.2 Financial Services	2023-2032	\$587,000	\$0	\$587,000	61%	\$358,070	\$228,930	0%	\$0	\$228,930	7%	\$16,643	\$212,287
6.3 Library Services	2023-2032	\$15,000	\$0	\$15,000	0%	\$0	\$15,000	0%	\$0	\$15,000	7%	\$1,090	\$13,910
6.4 Parks and Recreation Services	2023-2032	\$363,000	\$0	\$363,000	17%	\$61,710	\$301,290	0%	\$0	\$301,290	7%	\$21,903	\$279,387
6.5 Other Growth Related Studies	2023-2032	\$145,000	\$0	\$145,000	0%	\$0	\$145,000	0%	\$0	\$145,000	7%	\$10,541	\$134,459
TOTAL ADMINISTRATION		\$2,212,000	\$0	\$2,212,000		\$706,300	\$1,505,700		\$0	\$1,505,700		\$109,460	\$1,396,240

5. CBC Revenue Analysis and Rate Structure

This section includes a projection of CBC revenue under the 4% cap as well as recommendations on a CBC rate structure and CBC administration.

A. CBC Capital Needs Greater than Projected CBC Revenue

The average per-unit land value in current (2023) dollars is calculated as a range for the purposes of estimating potential CBC revenue. A range was applied recognizing that the Town has limited existing high-density development that would be eligible to pay CBCs. As shown in Table 9 below, the land values range from a low of \$24,100 per unit to a high of \$50,000 per unit.

After applying the legislated 4%, it is anticipated that a CBC eligible development would pay between \$965 to \$2,000 per unit in CBCs. Applying this range against the projected CBC eligible units (454 apartments) results in an estimate of potential CBC revenues of \$438,500 to \$908,600 over the 2023 – 2032 period.

As set out in Section 4, the total cost of the CBC-eligible capital program over the same period is \$3.97 million. As such, the CBC capital needs cannot be fully funded from potential CBC revenues.

Table 9: Estimate of Potential CBC Revenues, 2023 – 2032

Land Value Scenarios	Land Value per Unit	Average CBC (4% cap)	# of Units	Potential CBC Revenue
Low	\$24,130	\$965	454	\$438,500
High	\$50,000	\$2,000	454	\$908,600
Average	\$37,065	\$1,483	454	\$673,600

B. Proposed CBC Rate Structure is a Percentage of Land Value

It is proposed that the CBC be a uniform 4% of land value across the Town. All development that meets the criteria set out in Section 37 (4) of the Act would be subject to the CBC excluding those listed as exempt under O.Reg. 509/20.

C. Timing of CBC Payment

CBCs are payable prior to the issuance of a building permit. In accordance with section 37 (33) of the Act, if the developer considers the charge to be higher than 4% of land value, they are permitted to submit a payment under protest and must submit an alternate appraisal within 30 days. The Town then has 45 days to provide the appraisal upon which the charge was based.

D. Managing the CBC Special Account

i. Existing Reserves

Existing reserves to be transferred to the CBC Special Account include any unspent or unallocated portions of the legacy Administration and Parking DC reserve funds less any prior commitments.

ii. CBC Reserve

Subsection 37 (45) of the Act requires that a single CBC special account be established. This is unlike DC reserve funds which are dedicated to specific service areas as defined in the DC by-law. The funds in the CBC reserve will include any existing reserves from non-eligible DC services as well as monies collected under the CBC by-law.

At the beginning of each year, the Town must allocate or spend 60% of the funds in the special account to CBC-eligible projects. The following information must be provided to the public each year in the respect of the preceding year:

1. Statements of the opening and closing balances of the special account and of the transactions relating to the account.
2. In respect of the special account referred to in subsection 37 (45) of the Act, statements identifying,
 - i. facilities, services and matters acquired during the year with funds from the special account;
 - ii. details of the amounts spent; and
 - iii. for each facility, service or matter mentioned in subparagraph i, the manner in which any capital cost not funded from the special account was or will be funded.
3. In respect of the special account referred to in subsection 42 (15) of the Act, statements identifying,
 - i. land and machinery acquired during the year with funds from the special account;
 - ii. buildings erected, improved or repaired during the year with funds from the special account;
 - iii. details of the amounts spent; and
 - iv. for each asset mentioned in subparagraphs i and ii, the manner in which any capital cost not funded from the special account was or will be funded.
4. The amount of money borrowed from the special account and the purpose for which it was borrowed.
5. The amount of interest accrued on any money borrowed from the special account.

E. Statutory Exemptions

O. Reg. 509/20 includes the following statutory exemptions from payment of CBCs:

1. 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 Long-Term Care Homes Act, 2007.
2. 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.
3. 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.
4. 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.
5. Development or redevelopment of a building or structure intended for use as a hospice to provide end of life care.
6. 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. O. Reg 509/20, s. 1, 8.

In addition, recent legislative changes introduced to the Act through Bill 23 have provided exemptions for attainable and affordable housing. The province has yet to define these housing types and, as such, the exemption is not yet in force.

6. Implementation & Administration

A. Consultation

The Act requires that a municipality consult with such persons and public bodies as the municipality considered appropriate. Subsection 37 (10) indicates that, at the discretion of the Town, consultation shall be conducted.

- The draft CBC Strategy will be posted on the Town’s website in late June 2023, in advance of a formal public meeting.
- A formal public meeting is anticipated to be held on July 10, 2023, ahead of the by-law being presented to Council for passage.

B. By-Law Passage, Notice and Appeal Provisions

The CBC By-law is anticipated to be passed in late July 2023. The commencement of the by-law will be on the date the by-law is passed or the specified in the by-law, whichever is later in accordance with subsection 37 (11) of the Act.

A notice of passage is required to be provided no later than 20 days after passage, subsection 37 (13) of the Act. Furthermore, O.Reg. 509/20 subsection 4(2) states that a notice shall be given to every owner of land in the area to which the by-law applies, every person and organization that has written request for the notice, upper-tier municipalities, school boards and by publication in a newspaper of sufficient general circulation.

A CBC by-law may be appealed to the Ontario Land Tribunal within 40 days of passage by filing with the clerk of the Town. The Tribunal is limited in its ability to amend the CBC By-law including not being able to increase the amount of CBCs that will be payable in any particular case, add, remove or reduce the scope of an exemption, change a provision for a phasing in so as to make the charges payable earlier and change the date the by-law will expire.

C. Treatment of In-Kind Contributions

The Town may allow developers to pay CBCs in part or in whole with in-kind contributions. Such contributions will be evaluated on a case-by-case basis. The Town may require that an agreement be registered on title for the provision of these contributions.

Paragraphs 6-8 of section 37 of the Act guide the legislative framework for the consideration of in-kind contributions:

In-kind contributions

(6) A municipality that has passed a community benefits charge by-law may allow an owner of land to provide to the municipality facilities, services or matters required because of development or redevelopment in the area to which the by-law applies. 2020, c. 18, Sched. 17, s. 1.

Notice of value of in-kind contributions

(7) Before the owner of land provides facilities, services or matters in accordance with subsection (6), the municipality shall advise the owner of land of the value that will be attributed to them. 2020, c. 18, Sched. 17, s. 1.

Agreement re facilities, services or matters

(7.1) If the municipality intends to allow an owner of land to provide facilities, services or matters in accordance with subsection (6), the municipality may require the owner to enter into an agreement with the municipality that addresses the provision of the facilities, services or matters. 2022, c. 21, Sched. 9, s. 10 (1).

Registration of agreement

(7.2) An agreement entered into under subsection (7.1) may be registered against the land to which it applies and the municipality is entitled to enforce the agreement against the owner and, subject to the *Registry Act* and the *Land Titles Act*, against any and all subsequent owners of the land. 2022, c. 21, Sched. 9, s. 10 (1).

Deduction of value of in-kind contributions

(8) The value attributed under subsection (7) shall be deducted from the amount the owner of land would otherwise be required to pay under the community benefits charge by-law. 2020, c. 18, Sched. 17, s. 1.

The CBC by-law will provide for the potential acceptance of CBC in-kind contributions consistent with the legislative requirements.

D. CBC Payment Dispute Mechanism

Developers may dispute the CBC charge by paying in protest and submitting an alternate appraisal. If the appraisals are within 5% of each other, the Town must refund the difference (see outcome in Table 10). However, if the appraisal difference is greater than 5%, the Town will request the developer to select one of three appraisers from a Town list. That will be the final appraisal and if it results in a lower CBC rate than paid, the Town must refund the difference. Table 10 below provides a summary of the appraisal and dispute process.

Table 10: Payment Dispute Mechanism

	Planning Act	Timing	Action	Outcome
Charge as set by Town	37(44)	Building permit	Developer pays	Payment received – process complete
Charge as set by Town	37(44)	Building permit	Developers pays under protest	New appraisal required

	Planning Act	Timing	Action	Outcome
Payment under protest	37(33)	30 days	Developer submits appraisal to Town	Town review need for new appraisal or accept value
Town disputes developer's value	37(35)	45 days	Town submits appraisal to applicant	Joint review - if less than 5 percent difference, use higher value
Arbitrated value	37(38)	60 days	Applicant picks appraiser from Town roster	New appraisal sets value
In-kind contribution	37(7)	Before providing service / facility	Town to advise applicant of in kind value	No appeal process, value is deducted from charge

Appendix A

Draft CBC By-law

The Corporation of the town of Fort Erie

By-Law No. XX-23

A By-Law of The Corporation of the Town of Fort Erie to Impose Community Benefits Charges.

Whereas authority is given to Council under section 37 of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Planning Act"), to adopt a community benefits charge by-law; and

Whereas The Corporation of the Town of Fort Erie ("Town of Fort Erie") has prepared a community benefits strategy pursuant to subsection 37(9) of the Planning Act; and

Whereas the Town of Fort Erie has consulted with appropriate persons and public bodies in the preparation of this by-law in accordance with subsection 37(10) of the Planning Act;

Now Therefore the Council of the Town of Fort Erie enacts:

Definitions

As used in this by-law the following terms shall have the meaning indicated:

"Appraisal" – means an appraisal of land value prepared in accordance with the Canadian Uniform Standards of Professional Appraisal Practice of the Appraisal Institute of Canada;

"Basement" – means the portion of a building which is partially underground between the first floor and any floor below the level of the first floor.

"Building Code Act" – means the Building Code Act, 1992, S.O. 1992, c.23, as amended.

"Building Permit" – means a building permit issued by the Chief Building Official under the authority of the Building Code Act.

"Building Permit Application" – means an application for issuance of a building permit submitted to and deemed complete by the Chief Building Official, which complies with all applicable requirements of the Building Code Act and the Ontario Building Code, including all applicable law as defined therein, and includes payment of all applicable fees;

"Chief Building Official" – means the chief building official for the Town, appointed pursuant to section 3 of the Building Code Act, or their designate.

"Community Benefit Strategy" – means the community benefit strategy prepared pursuant to subsection 37(9) of the Planning Act.

"Condominium Act" – means the Condominium Act, 1998, S.O. 1998, c.19 as amended.

"Development or Redevelopment" – means any activity or proposed activity in respect of any land, Building or structure, whether existing or proposed, that requires:

- a. the passing of a zoning by-law or of an amendment to a zoning by-law;
- b. the approval of a minor variance;
- c. conveyance of land to which a part lot control exemption by-law applies;
- d. the approval of a plan of subdivision;
- e. a consent to sever;
- f. the approval of a description of a plan of condominium pursuant to the Condominium Act; or
- g. the issuing of a permit under the Building Code Act, in relation to a building or structure;

"Dwelling Unit" – means a suite of habitable rooms which:

- a. is located in a building;
- b. is used or intended to be used in common by one or more persons as a single, independent and separate housekeeping establishment;
- c. contains food preparation and sanitary facilities provided for the exclusive common use of the occupants thereof; and
- d. has a private entrance directly from outside the building or from a common hallway or stairway inside the building;

"First Storey" – means the storey that has its floor closest to grade and its ceiling more than one-point-eight (1.8) metres above the average adjacent grade abutting the front yard, but shall not include the basement. For purposes of this bylaw, the first storey is deemed to be at or above ground level;

"Grade" – means the average elevation of the finished surface of the ground along the front elevation of a building or structure, exclusive of any artificial embankment abutting such building or structure.

"Gross Floor Area" – means the aggregate of the floor areas of all storeys of a building or structure, other than an attic or a cellar, excluding the floor area of any private garage;

"In-kind contribution" – means facilities, services or matters identified in a Community Benefits Strategy and required because of development or redevelopment provided by an owner of land, in lieu of payment of the community benefits charge otherwise applicable, in whole or in part.

"Phase" – means a part or parts of a larger development / redevelopment for which separate building permit application(s) will be submitted.

"Planning Act" – means the Planning Act, R.S.O. 1990, c. P.13 as amended from time to time or any successor thereof.

"Residential Unit" - means the same as a dwelling unit.

"Storey" – means a level of a building, other than a basement, located between any floor and the floor, ceiling or roof immediately above it.

"Town" – means the Corporation of the Town of Fort Erie.

"Value of the Land" – means for the purposes of determining the Community Benefits Charge payable, the appraised value of the land in an appraisal prepared by or for the Town and in accordance with generally accepted appraisal principles and standards.

Application of By-Law

1. Subject to section 2 herein, this by-law applies to all lands within the Town of Fort Erie.
2. This by-law shall not apply to land or buildings within the Town of Fort Erie that are owned or used for the purposes of:
 - a. the Town of any local board thereof;
 - b. a Board of Education

Application of By-Law

3. A Community Benefits Charge shall be payable against land to pay for the capital costs of facilities, services, and matters required for Development or Redevelopment of all lands in the geographic area of the Town of Fort Erie unless section 2 herein applies.
4. The Community Benefits Charge shall be imposed on all Development or Redevelopment of a building or structure with five or more storeys and that adds ten or more Residential Units.
5. The following facilities have been identified as being required, in whole or in part, to meet the increased need for service arising from the CBC-eligible Development or Redevelopment:
 - a. Public Realm and Urban Amenities;
 - b. Active Transportation;
 - c. Affordable Housing;

- d. Administration;
- e. Parking; and
- f. CBC By-law Reviews and Strategy Updates.

Amount of Charge

6. The amount of the Community Benefits Charge payable is 4% of the value of the land that is the subject of the Development or Redevelopment on the day before the first building permit is issued in respect of the development or redevelopment, multiplied by the ratio of “A” to “B” where,
 - a. “A” is the gross floor area of any part of a building or structure, which part is proposed to be erected or located as part of the Development or Redevelopment, and
 - b. “B” is the gross floor area of all buildings and structures that will be on the land after the Development or Redevelopment.
7. The value of the gross floor area for the types of Development or Redevelopment set out in section 1 of Ontario Regulation 509/20 to the Act shall be deducted from the Community Benefits Charge otherwise payable.
8. In determining the amount of the Community Benefits Charge for a particular Development or Redevelopment the Town shall require the owner of the land in question to provide an appraisal of the Value of the Land to the Town. The appraisal shall be prepared by an appraiser accredited by the Appraisal Institute of Canada and at no expense to the Town.

Timing of Calculation and Payment

9. The Community Benefits Charge is payable prior to the issuance of the first building permit issued for the Development or Redevelopment.
10. If a Development or Redevelopment is to be constructed in phases, each phase of the development is deemed to be a separate Development or Redevelopment for the purposes of this by-law and the amount of the Community Benefits Charge for each phase is 4% of the value of the land of that phase on the day before the first building permit for the Development or Redevelopment of that phase is issued as required in accordance with section 37(32) of the Planning Act.

Exemptions

11. The onus is on the owner or applicant to produce evidence to the satisfaction of the Town establishing that the owner or applicant is entitled to an exemption under the provisions of this by-law.

In-Kind Contributions

12. Council may allow an owner of land to provide an In-Kind Contribution in-lieu of payment of a portion or all of the Community Benefits Charge otherwise payable. The Council shall advise the owner of the value that will be attributed to any In-Kind Contribution prior to the owner providing such facilities, services and other matters.
13. Where the Town intends to allow the owner to provide an In-Kind Contribution, the Town may require the owner to enter into an agreement with the municipality that addresses the provision of the facilities, services or matters.
14. In the event that arrangements are made for the provision of the In-Kind Contribution that are satisfactory to Council, the Community Benefits Charge otherwise payable for the Development or Redevelopment shall be reduced by the value that the Town has attributed to the In-Kind Contribution.
15. Notwithstanding section 12, 13 and 14, any Development or Redevelopment or use that is excluded or exempted in this by-law shall not be considered an In-Kind Contribution for the purposes of subsection 37(8) of the Planning Act.

Payment Under Protest and Dispute Resolution

16. Where an owner of land is of the view that the amount of the community benefits charge exceeds 4% of the land value, the owner shall pay the charge under protest and within thirty (30) days provide the Town of Fort Erie with an Appraisal of the value of land as of that phase on the day before the first building permit for the Development or Redevelopment.
17. If an owner of land pays under protest but does not provide an Appraisal within thirty (30) days, the payment is deemed not to have been made under protest.
18. If the Town does not dispute the owner's Appraisal, the Town shall refund to the owner the difference between the amount paid and 4% of the land value determined by the owner's Appraisal.
19. If the Town disputes the value of land identified in the owner's Appraisal, then the Town shall provide the owner with an Appraisal of that phase on the day before the first building permit for the Development or Redevelopment as of the valuation date within 45 days of receiving the owner's appraisal, and subsection 37(37)-(41) of the Planning Act apply.

Review

20. Within five years after this by-law is passed Council shall ensure that a review of this by-law is undertaken and shall pass a resolution declaring whether a revision

to the by-law is needed and thereafter shall further review the by-law and pass a resolution within every five years after the previous resolution was passed.

Short Title

21. The by-law may be cited as the “Town of Fort Erie Community Benefits Charge By-law”.

ENACTED AND PASSED this XX day of July, 2023.

Signed by XX, XX, XX

Draft