

Report for Public Consultation

Prepared by Hemson for Town of Newmarket



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

IZ Inclusionary Zoning

PPB Post-Period Benefit

PPU Persons Per Unit

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Executive Summary

A. Purpose of 2022 CBC Strategy

i. What is a Community Benefits Charge?

A Community Benefits Charge (CBC) is a new growth-funding tool (GFT) under the Planning Act (Act) that allows municipalities to levy a charge against certain forms of higher density development to fund associated development-related capital infrastructure needs. The CBC provisions replace the former section 37 height and density bonusing in the Act, subject to transition rules. A CBC can be levied in addition to development charges (DCs) and collections under Section 42/51 of the Planning Act under the provisions and restrictions of the Act.

Municipalities can use CBCs to fund a wide-range of capital costs of any public service that are related to the needs associated with new growth if those costs are not already recovered from development charges and parkland provisions. A CBC can be used to fund services provided for under a DC by-law, and for parkland acquisitions, as long as there is no duplication of recovery of the same capital costs under another GFT.

ii. Legislative Context

The Town of Newmarket's 2022 Community Benefits Charge Strategy (herein referred to as the "CBC Strategy") is presented as part of the process to lead to the approval of a CBC By-law in compliance with the Planning Act, 1990 (the "Act"). The report 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 18th, 2020.

iii. **CBCs Levied on Higher Density Residential Development**

A CBC can only be levied against higher density residential development, limited by the Act to developments 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 the above criteria.

The regulations to s.37 of the Act, O. Reg. 509/20, also provide for a number of statutory exemptions from the payment of a CBC, namely:

- Long-term care & retirement homes;
- Colleges, universities and post-secondary Indigenous institutes;
- Royal Canadian Legion;
- Hospice for end of life care;
- Non-profit housing.

iv. **CBC Strategy**

Subsection 37(32) of the Planning Act prescribes that the maximum permitted charge that can be levied is four per cent of land value for a development with five or more storeys and ten or more residential units on the day before issuance of the building permit. Several key steps must be undertaken in order to levy CBCs. They include:

- Preparing a development (growth) forecast;
- Determining the increased need arising from development;
- Determining how these costs are attributed to CBC development;
- Identifying any excess capacity that exists; and
- Estimated benefit to existing shares, grants, subsidies or other contributions.

B. Development Forecast

Over the ten-year planning period from 2022 to 2031, the Town is anticipated to grow by approximately 2,020 occupied dwelling units in buildings which would be subject to a community benefits charge. As set out in Section 3 of O. Reg. 509/20, the maximum permissible CBC is capped at four per cent of land value. At the four per cent cap, a high level estimate of the CBC revenue potential associated with these units is approximately \$2.29 million. Additional details are provided in Section 5.

C. CBC Capital Needs Exceed Revenue Forecast

The estimated CBC eligible costs of the growth-related capital program is a total \$25.51 million. The CBC eligible costs exceed the amount that can be funded under the four per cent cap.

D. Application of CBCs

The Town of Newmarket is anticipated to levy CBCs as a certain percentage of land value of the development prior to the issuance of a building permit, or the first permit if the development requires multiple permits. The charges will be applied on a Town-wide basis to all eligible developments notwithstanding statutory exemptions in subsection 37 (4) (e) of the Act and the Town's CBC By-law.

1. Introduction

A. Introduction and Background

The Town of Newmarket's Community Benefits Charges Strategy is presented as part of a process to lead to the approval of a new community benefits charges by-law in compliance with the Planning Act, 1990 (Act).

Subsection 37(9) of the Act and section 2 of O. Reg. 509/20 require that a CBC 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 these net capital costs is shown among various growth-related funding sources including Development Charges.

The Act requires that municipalities consult with the public; accordingly, the Town will make this CBC Strategy and the draft CBC by-law available for public comment before Council's passage of the by-law. An industry information and engagement session is anticipated to be held prior to Council's consideration of the CBC Strategy and by-law and a public meeting is proposed to be held in the spring of 2022. Following completion of this consultation process, Council will review the strategy, the comments received regarding this report and any other information brought to Council's attention regarding the proposed rate. Finally, Council will pass a new Community Benefits Charges by-law for the Town.

The remainder of this strategy report sets out the information and analysis upon which the proposed charge is based.

B. Legislative Context & Regulatory Requirement

The community benefits section of the Planning Act has replaced what was previously referred to as section 37 "Increased Density." This change was introduced through the COVID-19 Economic Recovery Act, 2020 and previous versions in the More Homes, More Choice Act, 2019 as well as the Plan to Build Ontario Together Act, 2019. The new section 37 enables municipalities to impose community benefits charges against land to pay for the capital costs of facilities, services and matters required because of development or redevelopment in the municipality.

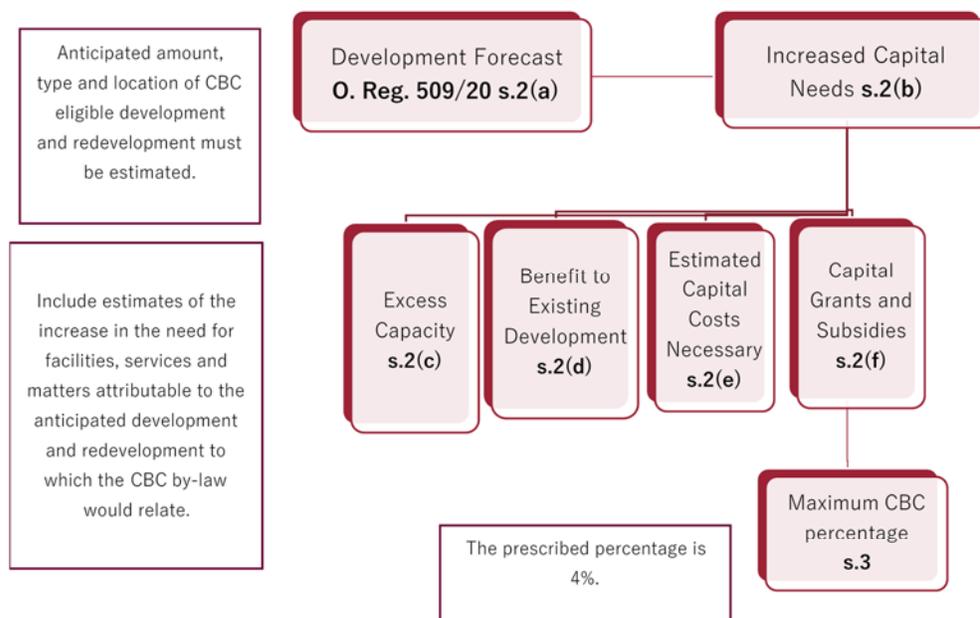
The new section 37 sets out the relationship between community benefits charges and other growth-related funding tools, including the development charges levied under the Development Charges Act, 1997.

2. Purpose of the 2022 Community Benefits Charge Strategy

A. Key Steps in Determining CBCs

As shown in Figure 1, the CBC Strategy needs to include various components to validate the applied charge. In the case of the Town of Newmarket, the charge is levied on a land value basis not exceeding the legislated maximum of four per cent.

Figure 1. Key Steps in Determining CBCs



B. Proposed Methodology & Approach

The Community Benefits Charges legislation does not specify the method by which a CBC is levied. Various options could be applied by a municipality, such as charges based on a percentage of land value, a per-unit charge, or a charge based on gross floor area of development. It is proposed the Town adopt a charge based on four per cent of land value at the time of building permit issuance, for the collection of CBCs levied on a Town-wide basis. This approach enables the Town to maximize revenue collections to help fund growth-related costs. The Town could consider the approaches to implementing the charge through the CBC by-law or through policy.

The CBC capital program, summarized in the section below and in Section 4 of the Strategy, was developed with Town staff and relies on previous work completed for the 2022 capital budget, 2022 DC Background Study, and the Town's Section 37 implementation guidelines.

As directed by subsection 37 (45) CBC collections shall be paid into a special account. Furthermore, subsection 37 (47) directs that a minimum of 60 per cent of the monies in the special account must be allocated or spent annually. A process outside of this CBC Strategy will be established to outline the details for determining priorities for spending, as approved by Council.

C. CBC Capital Program

The total gross capital program identified for recovery from CBCs is \$89.30 million. The entire gross capital cost is not eligible to be funded by CBCs and a series of legislated deductions have been made including consideration for excess capacity, replacement or benefit to existing shares and shares to be funded from other growth-funding tools. Grants and subsidies total \$51,250 and are netted off the municipal eligible cost.

As indicated in Table 1 below, the resulting net municipal cost is \$89.25 million. Replacement or benefit to existing shares removed from the eligible recovery costs total \$18.88 million and relate to Civic Administration, Library, and Municipal Parking projects. Lastly, of the total development-related cost of \$70.37 million, only a portion of \$25.51 million is deemed eligible for recovery from CBC developments. The remaining development related costs are eligible to be recovered from development charges and/or other funding tools.

Table 1. Summary of CBC Capital Program (\$000s)

Service	Gross Project Cost	Grants / Subsidies / Other Recoveries	Net Cost	Replacement & BTE (\$)	Total Development Related Cost	Total CBC Related Costs
1.0 CIVIC ADMINISTRATION	\$1,325	\$51	\$1,274	\$204	\$1,069	\$431
2.0 LIBRARY	\$27,123	\$0	\$27,123	\$13,621	\$13,502	\$5,158
3.0 AFFORDABLE HOUSING	\$2,000	\$0	\$2,000	\$0	\$2,000	\$2,000
4.0 PARKS & RECREATION	\$44,750	\$0	\$44,750	\$0	\$44,750	\$12,386
5.0 MUNICIPAL PARKING	\$10,100	\$0	\$10,100	\$5,050	\$5,050	\$1,541
6.0 PUBLIC REALM	\$4,000	\$0	\$4,000	\$0	\$4,000	\$4,000
TOTAL COST	\$89,298	\$51	\$89,247	\$18,875	\$70,372	\$25,515

Note: May not add due to rounding.

3. Development Forecast

This section describes the methodology and results of the development forecast that forms the basis of the capital program. The development forecast is based on estimates of growth occurring within approved Official Plan designated urban areas and is consistent with the 2022 DC Background Study.

This section portrays the results of the housing unit and population forecast in line with the requirements of O. Reg. 509/20 s.2(a).

A. Proposed 10-Year Planning Horizon

The Town establishes capital budgets on a 10-year basis and the CBC Strategy capital programs are in line with the internal Town capital planning time-frame. In addition, the time frame generally aligns with the 2022 DC Background Study as some capital projects are eligible to be funded using both growth funding tools. The time frame for the development forecast and the capital programs in this CBC Strategy is 2022 – 2031.

B. Consistent with the DC Development Forecast

The forecast for the CBC Strategy was based on the forecast used in the Town's 2022 DC Background Study (DC Study), which is derived from Census Canada and CMHC data.

Based on the Town's current development pipeline data, it is anticipated approximately 80 per cent of apartment units over the 2022 to 2031 period will meet the CBC criteria of being five or more storeys and containing 10 or more residential units. As shown in Table 2, the total forecast of units in the Town over the 2022 – 2031 period totals 3,795 and is consistent with the 2022 DC Background Study.

Table 2. Forecast of Annual Housing Unit Starts – Town-Wide

Year	Single/Semi	Row	Apartment	Total
2022	63	127	233	423
2023	64	129	236	430
2024	65	131	240	437
2025	22	133	288	443
2026	23	135	293	450
2027	14	84	183	281
2028	14	57	212	283
2029	14	43	229	286
2030	14	43	231	288
2031	24	71	379	474
Total 2022-2031	319	953	2523	3,795

As shown in Table 3, the total forecast of units subject to CBCs is 2,018 over the 2022 to 2031 period. This represents 80 per cent of the total 10-year forecast of apartment unit starts or 53 per cent of all unit types.

Table 3: Forecast of Annual Housing Unit Starts – Units Subject to CBCs

Year	Single/Semi	Row	Apartment	Total
2022	-	-	186	186
2023	-	-	189	189
2024	-	-	192	192
2025	-	-	231	231
2026	-	-	234	234
2027	-	-	146	146
2028	-	-	170	170
2029	-	-	183	183
2030	-	-	184	184
2031	-	-	303	303
Total 2022-2031	0	0	2,018	2,018

Table 4 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) assumptions established as part of the 2022 DC Background Study. The average apartment unit PPU is 1.68 and this, when applied to the total 10-year CBC unit start forecast (2,018), results in an estimate of 3,384 persons. This represents 43 per cent of the overall 10-year forecast of people in all unit starts (7,905). This 43 per cent 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. It is noted that in certain cases, a potential non-residential benefit is recognized resulting in a CBC-eligible share lower than 31 per cent.

Table 4. Forecast of Persons in Unit Starts, 2022-2031

	Single/Semi	Row	Apartment	Total
Units Subject to CBC	-	-	2,018	2,018
All Units	319	953	2,523	3,795
PPU Assumptions	3.45	2.70	1.68	
Persons in Units Subject to CBC	-	-	3,384	3,384
Persons in All Units	1100	2,574	4,231	7,905
% of Persons in Units Subject to CBC				43%

Low and high forecasts were developed for the purposes of establishing a CBC revenue forecast. Further details on the forecast revenue is in Section 5. The estimated high-end forecast is for 2,145 units representing 85 per cent of the total forecasted apartment units in the Town while the low-end forecast is 1,891 units or 75 per cent as presented in Table 5.

The average of the two scenarios was used to determine benefit to existing shares as well as the CBC eligible components based on project scope.

Table 5: Town-wide Apartment Growth in High and Low CBC Apartment Developments

Year	Total Town-Wide Apartments	Annual Growth	Low CBC Eligible Development	High CBC Eligible Development
2022	6,873	233	174	198
2023	7,109	236	177	201
2024	7,349	240	180	204
2025	7,638	288	216	245
2026	7,930	293	220	249
2027	8,113	183	137	155
2028	8,325	212	159	181
2029	8,554	229	171	194
2030	8,784	231	173	196
2031	9,163	379	284	322
Total	-	2,523	1,891	2,145

For determining shares of capital costs related to growth in CBC-eligible development where a project benefits both residential and non-residential developments a non-residential forecast is presented below. The ten-year, 2022 to 2031, forecasted population in new dwelling units plus place of work employment totals 3,184; of this total growth, 31 per cent is anticipated to occur in CBC-eligible developments as shown in Table 6 below.

Table 6: Summary of Shares of Total Population and Employment Development vs CBC Eligible Population Growth

Population in New Dwellings (a)	7,905
Place of Work Employment (b)	3,184
Population and Employment (c)	11,089
CBC Eligible Units Population (d)	3,385
Share of CBC Eligible Pop. Vs Total Town-wide Pop. & Emp. (%) (d)/(c)	31%

4. CBC Capital Program

A. Services Considered

The Act defines the types of projects and capital that can be included in the strategy as: the facilities, services and matters that may be funded with community benefits charges.

In the following Section 5, it is evident that there is not sufficient CBC revenue anticipated to be collected under the four per cent cap to meet the increased needs arising from CBC-eligible development. As such, through consultation with Town staff, a priority list of service categories has been identified. The list is based on projects that have lost eligibility for DC funding, projects anticipated to be funded through Section 37 Bonus Zoning, projects where DC legislation limits funding due to historical service level restrictions and others. The following services have been included as related to developments subject to the CBC:

- Civic Administration;
- Library;
- Affordable Housing;
- Parks & Recreation;
- Municipal Parking;
- Public Realm.

Each service area 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 Other GFT (if applicable);
- Share of Net Capital Costs related to CBC Eligible Developments.

B. Projects Funded by Multiple GFTs

When a project is identified for funding from both DCs and CBCs, it recognizes the CBC development (largely higher density residential) places an incrementally higher demand for the service/project than is permitted under the DCA ten-year service level restrictive funding envelope cap. There is no funding of the same share of project from both DC and CBCs.

C. Capital Needs by Service

Table 7 below includes the details by service of the capital needs associated with the forecasted CBC eligible developments in the Town over the ten-year period 2022 to 2031. The capital costs included in this Strategy reflect a point in time for this framework, but the need for the services is estimated to continue beyond the ten-year period in a relationship to the amount of CBC development. Some service categories include provisions for addressing the need arising from CBC development which allow the Town to continue to respond to development as future capital costs arise.

TABLE 7

TOWN OF NEWMARKET
CBC DEVELOPMENT-RELATED CAPITAL PROGRAM

Project Description	Timing	Gross Project Cost	Grants / Subsidies / Other Recoveries	Net Cost	BTE (%)	Replacement & BTE (\$)	Total Development Related Cost	DC Share (\$)	Non-DC Development		CBC Share (%)	Total CBC Related Costs
									Cost	Other Funding*		
1.0 CIVIC ADMINISTRATION												
1.1 CBC Strategy and Implementation	Various	\$150,000	\$0	\$150,000	0%	\$0	\$150,000	\$0	\$150,000	\$0	100%	\$150,000
1.2 Development Related Studies	Various	\$1,175,000	\$51,250	\$1,123,750	18%	\$204,375	\$919,375	\$0	\$919,375	\$638,822	31%	\$280,553
TOTAL CIVIC ADMINISTRATION		\$1,325,000	\$51,250	\$1,273,750		\$204,375	\$1,069,375	\$0	\$1,069,375	\$638,822		\$430,553
2.0 LIBRARY												
2.1 New Library - Building (65,000 sq. ft.)	2028 - 2028	\$7,500,000	\$0	\$7,500,000	55%	\$4,125,000	\$3,375,000	\$1,453,908	\$1,921,092	\$1,098,738	43%	\$822,354
2.2 New Library - Building (65,000 sq. ft.)	2029 - 2030	\$17,023,000	\$0	\$17,023,000	55%	\$9,362,650	\$7,660,350	\$0	\$7,660,350	\$4,381,214	43%	\$3,279,136
2.3 Electronic Library Materials	2023 - 2033	\$1,500,000	\$0	\$1,500,000	0%	\$0	\$1,500,000	\$0	\$1,500,000	\$857,901	43%	\$642,099
2.4 New Library Kiosks	2023 - 2028	\$500,000	\$0	\$500,000	0%	\$0	\$500,000	\$0	\$500,000	\$285,967	43%	\$214,033
2.5 Retail Space Lease	2024 - 2028	\$500,000	\$0	\$500,000	20%	\$100,000	\$400,000	\$0	\$400,000	\$228,774	43%	\$171,226
2.6 Library Vehicle - Cargo/Crew plus wrap	2023 - 2025	\$100,000	\$0	\$100,000	33%	\$33,000	\$67,000	\$0	\$67,000	\$38,320	43%	\$28,680
TOTAL LIBRARY		\$27,123,000	\$0	\$27,123,000		\$13,620,650	\$13,502,350	\$1,453,908	\$12,048,442	\$6,890,913		\$5,157,529
3.0 AFFORDABLE HOUSING												
3.1 Provision for Affordable Housing	2022 - 2031	\$2,000,000	\$0	\$2,000,000	0%	\$0	\$2,000,000	\$0	\$2,000,000	\$0	100%	\$2,000,000
TOTAL AFFORDABLE HOUSING		\$2,000,000	\$0	\$2,000,000		\$0	\$2,000,000	\$0	\$2,000,000	\$0		\$2,000,000

TABLE 7

TOWN OF NEWMARKET
CBC DEVELOPMENT-RELATED CAPITAL PROGRAM

Project Description	Timing	Gross Project Cost	Grants / Subsidies / Other Recoveries	Net Cost	BTE (%)	Replacement & BTE (\$)	Total Development Related Cost	DC Share (\$)	Non-DC Development		CBC Share (%)	Total CBC Related Costs
									Cost	Other Funding*		
4.0 PARKS & RECREATION												
4.1 Provision for Mulock Estate Development (Phase 2)	2023 - 2025	\$42,000,000	\$0	\$42,000,000	0%	\$0	\$42,000,000	\$16,483,771	\$25,516,229	\$14,593,597	43%	\$10,922,632
4.2 Provision for Urban Parks & POPs	2022 - 2031	\$500,000	\$0	\$500,000	0%	\$0	\$500,000	\$0	\$500,000	\$0	100%	\$500,000
4.3 Provision for Multi Use Paths (MUP)	2022 - 2031	\$2,250,000	\$0	\$2,250,000	0%	\$0	\$2,250,000	\$0	\$2,250,000	\$1,286,851	43%	\$963,149
TOTAL PARKS & RECREATION		\$44,750,000	\$0	\$44,750,000		\$0	\$44,750,000	\$16,483,771	\$28,266,229	\$15,880,449		\$12,385,780
5.0 MUNICIPAL PARKING												
5.1 Downtown Parking Structure (including land) - 250 spaces	2022 - 2031	\$10,000,000	\$0	\$10,000,000	50%	\$5,000,000	\$5,000,000	\$0	\$5,000,000	\$3,474,221	31%	\$1,525,779
5.2 Long Range Parking Plan for Downtown Newmarket	2022 - 2022	\$100,000	\$0	\$100,000	50%	\$50,000	\$50,000	\$0	\$50,000	\$34,742	31%	\$15,258
TOTAL MUNICIPAL PARKING		\$10,100,000	\$0	\$10,100,000		\$5,050,000	\$5,050,000	\$0	\$5,050,000	\$3,508,963		\$1,541,037
6.0 PUBLIC REALM												
6.1 Provision for Urban Public Realm Enhancements	2022 - 2031	\$2,000,000	\$0	\$2,000,000	0%	\$0	\$2,000,000	\$0	\$2,000,000	\$0	100%	\$2,000,000
6.2 Provision for Public Art	2022 - 2031	\$2,000,000	\$0	\$2,000,000	0%	\$0	\$2,000,000	\$0	\$2,000,000	\$0	100%	\$2,000,000
TOTAL PUBLIC REALM		\$4,000,000	\$0	\$4,000,000		\$0	\$4,000,000					\$4,000,000
TOTAL CBC CAPITAL PROGRAM		\$89,298,000	\$51,250	\$89,246,750		\$18,875,025	\$70,371,725	\$17,937,679	\$52,434,046	\$26,919,147		\$25,514,899

* Note: Other funding related to development but not funded from Development Charges or Community Benefit Charges.

i. Civic Administration

a) Service Description

The cost of the CBC Strategy itself is eligible under the Act and included in this service category is the implementation of the strategy. Costs related to supporting the administration of the CBC Strategy and By-law. Additionally costs not covered under the 2022 DC Study related to Development Related Studies are included.

b) Service Delivery and Service Levels Consideration

Inclusion of the CBC Strategy and implementation does not increase the level of service provided to existing residents as they replace existing Section 37 workflows and ineligible DC Services.

c) Estimate of Need

Included in this service area are costs related to updating the CBC Strategy and costs to support the implementation and administration of the CBC Strategy and By-law.

d) Consideration of Excess Capacity

No excess capacity exists for this service.

e) Capital Cost

The gross cost included in the capital program totals \$1.32 million over the ten year planning period.

f) Identification of any Anticipated Capital Grants, Subsidies or Other Contributions

A contribution of \$51,250 from the Town of Aurora for a development related study has been netted off the municipal cost.

g) Consideration of Benefit to Existing

A benefit to existing share of 18 per cent was identified as it is in the 2022 DC Study for the development related studies capital cost.

h) Relation to funding from Other GFT (if applicable)

Development Charges shares for development related studies can be found in the Town’s 2022 DC Background Study. The cost included in the CBC Strategy is only the shares that are not funded from DCs. Other growth related funding is required for \$638,822 which can be recovered from future DC Studies or other funding sources such as property taxes.

i) Share of Net Capital Costs related to CBC Eligible Developments

The entire cost of the CBC Strategy implementation of \$150,000 is included in the CBC related cost but only a portion of the development related studies is included. The share is based on the proportion of all development, residential and non-residential in the Town over the ten-year period and results in 31 per cent or \$280,553. The total cost of \$430,553 is eligible for recovery from CBC developments.

ii. Library

a) Service Description

The Town of Newmarket provides library services to all Town residents. Library services includes the buildings, equipment, materials, virtual services and others.

b) Service Delivery and Service Levels Consideration

The Town has used the development charges to pay for Library costs as permitted under the DCA. However due to limitations in the DCA, the full cost related to growth is not eligible for funding and therefore a share has been allocated to CBC development.

c) Estimate of Need

The need included in the CBC Strategy for recovery from CBC eligible developments is based on discussions with staff, the Town’s 2022 capital budget, 2022 DC Background Study and others.

d) Consideration of Excess Capacity

There is no excess capacity in the Library capital program.

e) Capital Cost

The total gross cost of the program is \$27.12 million which includes a new library building and materials, electronic library materials, new library kiosks, retail space lease and a library vehicle.

f) Identification of any Anticipated Capital Grants, Subsidies or Other Contributions

No grants, subsidies or other contributions have been identified for the projects included in the capital program.

g) Consideration of Benefit to Existing

Various BTE shares have been identified for the capital program ranging from 0 to 55 per cent based on the scope of the project. The shares related to the new building are based on the building area being replaced. The retail space lease has a BTE of 20 per cent based on the shares anticipated to benefit existing residents. Lastly the new library vehicle is anticipated to benefit existing residents at 33 per cent. The total BTE share is \$13.62 million.

h) Relation to funding from Other GFT (if applicable)

The DC funded share of \$1.45 million related to the new library building project has been removed from the CBC eligible shares. All of the remaining development related costs are eligible for CBC funding at 43 per cent based on shares of development to occur in CBC eligible developments. Other funding sources are needed for the \$6.89 million.

i) Share of Net Capital Costs related to CBC Eligible Developments

The total CBC related shares is therefore \$5.16 million.

iii. **Affordable Housing**

The Town, cooperatively with the Region, evaluates the need and method for delivering affordable housing, recognizing that the Region has the prime service delivery responsibility. The need for affordable housing increases as a municipality's population grows but the Town has limited tools available to address housing affordability. CBCs are one growth funding tool at the municipality's disposal to fund the creation of affordable housing units. The Region lacks the ability to levy CBCs, for housing or any service, under provincial statute.

a) **Service Delivery and Service Levels Consideration**

The Town participates in the creation of new affordable housing through Official Plan policies, funding partnerships, and land disposition.

b) **Estimate of Need**

As identified in various affordable housing documents¹ and York Region Official Plan (YROP)² policy 3.5.7 – 35 per cent of new housing the Region's Centres and key development areas be affordable and 25 per cent of new housing outside of those areas be affordable. To complete this goal, support from local municipalities and the private sector are needed. As noted on page 21 of the Housing Matters, 2020 report:

Local cities and towns provide on the ground implementation of regional and senior government policy through Local Official Plans, zoning and the development application and approvals process, including negotiations for community benefits such as affordable

¹ York Region, Affordable Housing Measuring and Monitoring Guidelines Update, June 2018. <https://www.york.ca/wps/wcm/connect/yorkpublic/6d93d0a0-a149-4f37-b24c-5ee41a9f1a15/York+Region+Affordable+Housing+Measuring+and+Monitoring+Guidelines+-+Online.pdf?MOD=AJPERES&CVID=mu8d5S>.

² York Region, Official Plan 2019 Office Consolidation version, April 2019. <https://www.york.ca/wps/wcm/connect/yorkpublic/0dc3cfc2-2e0f-49d2-b523-dc7c14b08273/yropConsolidation2019Accessible.pdf?MOD=AJPERES&CVID=mLW2t3Y>

housing and non-profit sector housing. They are integral in practically and technically interpreting policy and facilitating implementation to meet the needs of residents and workers.

The Town of Newmarket contains one of the Region's four regional centres – Yonge St and Davis Drive. As guided by the Newmarket Urban Centres Secondary Plan, the majority of development in the Town is forecasted to occur there. To meet the 35 per cent affordable housing target identified previously, of the total ten year housing growth in the Town, 3,795, approximately 1,328 units would need to be affordable. However the entire target has not been included in the CBC Strategy.

The units identified in the capital program are equal to 100 affordable housing units. Additional sources for the remaining shortfall include Inclusionary Zoning, Regional DCs, upper level government funding and other sources. It is also imperative to note the costs included in the CBC capital program relate solely to the Town's costs associated with these units.

c) Consideration of Excess Capacity

Given the CBC capital program is well below the actual unit need, no deductions for excess capacity have been made to the units identified in the CBC capital program.

d) Gross Capital Cost

The gross capital cost of the program is estimated at \$2.00 million over the ten-year period from 2022 to 2031. The cost is based on the construction of 100 units costing the Town \$20,000 in capital contributions per unit. These costs include the Town's development charges, planning application fees and other capital costs associated with the development of affordable housing units.

e) Identification of any Anticipated Capital Grants, Subsidies or Other Contributions

There are no grants, subsidies or other contributions identified for the Town's \$20,000 per unit share of affordable housing as this is a net value. There are various additional costs that the Region or other levels of government are responsible for that are not reflected in the Town's CBC Capital program.

f) Consideration of Benefit to Existing

The Town currently does not have ownership over any existing housing, as such, there is no replacement of existing assets.

g) Relation to funding from Other GFT (if applicable)

Although housing is permitted for collection from DCs, York Region includes all the costs associated with their share of the program and, at this time, no costs have been identified for recovery from the Town's DCs. In addition to DCs, the Town has been working on implementing an IZ policy. The costs identified in the CBC Strategy are distinct from the units identified to be generated through the IZ policy. The provision in the strategy relates only to the additional shortfall and the Town's cost share responsibility of those units.

h) Share of Net Capital Costs related to CBC Eligible Developments

The amount eligible for recovery from CBCs is 100 per cent or \$2.00 million.

iv. Parks & Recreation

a) Service Description

The Parks & Recreation service area capital program includes costs related to the provision of park development and recreation space. The service area includes the development of Mulock Estate (\$42.0 million), as well as provisions for additional urban parks, various trail extensions and related infrastructure.

The Town recognizes the importance of providing passive and development parkland for its residents. As the Town continues to intensify and as development densities increase, the need for public greenspace also increases given many new households do not have private outdoor space. Furthermore, urban parks are more expensive than traditional suburban parks for both of acquisition and development of the park lands. The other growth funding tools, DCs and *Planning Act* s.42 parkland conveyance, will not fully meet the parkland needs arising from high density residential development; CBCs provide a mechanism to fund a share of the increased development need.

b) Service Delivery and Service Levels Consideration

In the past, the Town delivered parks services through a mix of DCs, S 42/51 collections under the Planning Act, property taxes and others. Additionally parks were identified in the Town’s S37 Implementation Guidelines.

c) Estimate of Need

Dense urban developments place a greater demand for public urban parks and associated amenities. Decreased access to private greenspace leads to higher use of new and existing parks in high density neighbourhoods. Further exacerbated by COVID-19, urban parks now more than ever are seen as a vital component of a complete community.

d) Consideration of Excess Capacity

There is no excess capacity available within the Town’s existing parks network in areas that will experience high-density residential development. The costs included in the CBC strategy are related to incremental needs arising from development over the ten-year planning horizon.

e) Capital Cost

The gross capital cost of the service identified in Table 7 is \$44.75 million. This cost includes a provision the Mulock Estate Development (Phase 2), a

provision for urban parks and privately owned public spaces (POPS) at \$500,000, various trail connections at \$500,000 and one at \$750,000.

f) Identification of any Anticipated Capital Grants, Subsidies or Other Contributions

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

g) Consideration of Benefit to Existing

Benefit to existing shares has not been identified for this service area as the costs included are entirely related to growth.

h) Relation to funding from Other GFT (if applicable)

DC share of \$16.48 million has been identified for the Mulock Estate Development and other funding is needed for the \$15.88 million as well which may be considered for funding from future DC studies, property taxes or other tools.

i) Share of Net Capital Costs related to CBC Eligible Developments

The total eligible cost related to CBC development is \$12.38 million. The full cost of the provision for urban parks and POPs are included in the CBC eligible cost as they are entirely driven by CBC eligible development and therefore is indented to be recovered through CBCs, as allocated by Council through the annual allocation of CBC funds.

The CBC eligible share for the provision for costs that are derived from the Town's 2022 DC Study, is 43 per cent based on shares of residential growth forecasted to occur in CBC eligible developments and in the Town overall over the next ten years.

v. Municipal Parking

a) Service Description

The service area of Municipal Parking includes capital costs related to downtown parking structures (including land) for 250 spaces, as well as a provision for a long range parking plan for downtown Newmarket. Under the previous legislative regime, parking was a service included in the Town's Development Charges (DC) since 2009.

b) Service Delivery and Service Levels Consideration

The Town established past service levels through the 2019 DC Background Study. The costs proposed for recovery do not exceed past established service levels.

c) Estimate of Need

On-street Town provided parking as well as parking structures are required as the Town continues to grow. Despite mandatory parking standards, the Town continues to experience greater demand for additional parking arising from development.

d) Consideration of Excess Capacity

There is no excess capacity available within the Town's parking facilities and the costs included the CBC strategy are related to incremental needs arising from development.

e) Capital Cost

The gross capital cost associated with the parking program is \$10.10 million including a downtown parking structure at \$10.00 million and a long range parking plan at \$100,000.

f) Identification of any Anticipated Capital Grants, Subsidies or Other Contributions

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

g) Consideration of Benefit to Existing

It is recognized that there might be some benefit to existing land uses from the addition of parking and therefore a 50 per cent BTE allocation has been made in the CBC capital parking capital program. The resulting total development related cost is \$5.05 million.

h) Relation to funding from Other GFT (if applicable)

Provision of parking is not eligible for funding from development charges. Other funding is needed for \$3.51 million as it is not deemed to be driven by CBC eligible development.

i) Share of Net Capital Costs related to CBC Eligible Developments

The total CBC eligible cost is \$1.54 million or 31 per cent of the development related costs. This share is based on total forecasted residential and non-residential development in the Town 2022 - 2031 and the growth anticipated to occur in CBC eligible developments.

vi. Public Realm and Road Safety

a) Service Description

This service area includes items such as geometric road safety improvements, road speed mitigation measures, tactical urbanism (i.e. low-cost interventions to the built environment intended to improve local neighbourhoods and Town gathering places), and public art.

To clarify further, the capital costs included are those not eligible for funding through development charges and not abutting development which are part of the local service.

These types of infrastructure improvements are very important in areas of redevelopment and higher-density areas to ensure safe, functional and liveable communities recognizing the higher level of pedestrian, and other active transportation, activity in these neighbourhoods.

b) Service Delivery and Service Levels Consideration

The Town had used other funding sources, mainly property taxes to collect funds for urban public realm enhancements and public art.

c) Estimate of Need

The need included in the CBC Strategy for recovery from CBC eligible developments is based on discussions with staff, the Town's 2022 capital budget, and others.

d) Consideration of Excess Capacity

There is no excess capacity in the Public Realm and Road Safety CBC capital program.

e) Capital Cost

The total gross cost of the program is \$4.00 million which includes road safety measures, tactical urbanism capital enhancements, and a provision for public art.

f) Identification of any Anticipated Capital Grants, Subsidies or Other Contributions

No grants, subsidies or other contributions have been identified for the projects included in the capital program.

g) Consideration of Benefit to Existing

All of the projects included in the Public Realm capital program are entirely related to growth and therefore no BTE shares have been identified.

h) Relation to funding from Other GFT (if applicable)

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

i) **Share of Net Capital Costs related to CBC Eligible Developments**

Both the provision for urban public realm enhancements and public art are eligible to be fully funded from CBC development. These provisions are related to the need driven by CBC developments only and are therefore eligible to be fully funded from CBC developments.

5. CBC Revenue Analysis & Rate Structure

A. CBC Capital Needs Greater than Projected CBC Revenue

As described above in Section 4, the total cost of the CBC-eligible capital program is \$25.51 million. However, as the total forecasted revenue identified is approximated between \$2.15 million to \$2.43 million, it is evident that the capital needs cannot be fully funded by potential CBC revenues.

For projecting CBC revenue under the four per cent cap, the forecast of units subject to CBCs is multiplied by the anticipated revenue per unit. The revenue per unit of \$1,147 was determined based on developments since 2017 and the 2022 land value estimates which are based on the 2022 DC Study. A sensitivity test was conducted to consider potential revenues under the assumption that 75 per cent of apartment development in the Town between 2022 and 2031 will be CBC eligible developments, and under the assumption that 85 per cent of apartment development within the same time period will be CBC eligible.

This results in a high level estimate of potential CBC revenues of approximately \$2.15 million to \$2.43 million for the Town over the 2022-2031 period.

As discussed in Section 4, the total cost of the CBC-eligible capital program over the same 2022-2031 period is \$25.51 million. As such, it is evident that the capital needs cannot be fully funded by potential CBC revenues.

B. Proposed Rate Structure is as a Percentage of Site Land Value

It is proposed that the CBC levy rate will be based on a uniform four per cent of land value across the Town. Developments that meet the criteria set out in Section 37 (4) of the Act will be subject to the charge excluding those listed as exempt under O.Reg. 509/20.

C. Land Appraisal Process

Individual CBC obligations will be calculated based on the market value of the site on the day before issuance of the first building permit. Payment is required prior to the issuance of a building permit by the Town. In accordance with subsection 37 (44) of the Act. If the developer considers the charge is higher than four per cent of land value, they can 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. 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 Parking DC reserve and existing funds in the legacy Section 37 bonus zoning reserve 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 reserves 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 and CBC monies collected.

Annually, the Town must allocate or spend 60 per cent of the funds in the special account to CBC-eligible projects and the following information shall 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:

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.

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. For this 2022 CBC Strategy, the Town has posted the Strategy on the website on April 6th, 2022. Consultations with the development industry will be held in spring 2022 and a formal public meeting is anticipated to be in May, 2022. These opportunities for public input are in advance of presenting a final by-law for Council consideration in June 2022.

B. By-Law Passage, Notice and Appeal Provisions

The CBC By-law is anticipated to be passed in mid 2022. 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 twenty 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 forty days of passage by filing with the clerk of the Town. The Tribunal is limited in it's 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.

Paragraphs 6-8 of subsection 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.

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 per cent of each other the Town must refund the difference. However, if the appraisal difference is greater than 5 per cent, 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. Figure 2 below provides a summary of the appraisal and dispute process.

Figure 2: Payment Dispute Mechanism

	Planning Act	Timing	Action	Outcome
Charge as set by Town	37(44)	Building permit	Developer pays	Payment received – process complete
			Developers pays under protest	New appraisal required
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
Draft CBC By-law
(To Be Made Available
Under Separate Cover)