Report to Planning and Environment Committee

To: **Chair and Members**

Planning & Environment Committee

From: **John M. Fleming**

Managing Director, City Planning and City Planner

Subject: **Information Report – Proposed Regulations for Bill 108 – More Homes, More Choice Act, 2019**

Meeting on: **Monday, July 22, 2019**

Recommendation

That, on the recommendation of the Managing Director, City Planning and City Planner, the following actions be taken:

a) That this report **BE RECEIVED** for information;

b) That Civic Administration **BE DIRECTED** to submit responses to the Ontario Ministry of Municipal Affairs and Housing postings before August 5, 2019.

Executive Summary

- Bill 108 the *More Homes, More Choice Act, 2019* received Royal Assent on June 6, 2019. While some of the changes are now in effect, many of the key amendments to the Development Charges Act, the Planning Act, and the Local Planning Appeal Tribunal (L.P.A.T.) Act will come into force through Proclamation and drafting of regulations.

- The Province has thus proposed new regulations and regulation changes, including transition rules, under these Acts. The regulation changes are attached as Appendix A.

- The Ministry of Municipal Affairs and Housing and the Ministry of Attorney General has asked for public feedback on Bill 108's proposed regulations and regulation changes, with deadlines on several dates in August 2019.

- The attached report provides an overview of the proposed regulations and identifies municipal comments and concerns to be submitted to the Ministry.

- There are significant concerns with the proposed regulations relating to the relationship between the new Community Benefits Authority and the implementation of a Community Planning Permit System (CPPS). The proposed regulation would not allow community benefits charges to be collected in areas subject to a CPPS.

1.0 Consultation

1.1 Background

On June 21, 2019, the Ontario Government announced four series of public consultation processes and comment periods regarding new regulations and regulation changes, as follows:

Proposals	Comment due date
Regulations under the *L.P.A.T. Act*	August 5, 2019
Regulation and regulation changes under the *Planning Act*	August 6, 2019
Regulation changes under the *Development Charges Act*	August 21, 2019
Regulation pertaining to community benefits authority under the *Planning Act*	August 21, 2019

The amendments proposed under the L.P.A.T Act and a consultation guide are posted on Ontario's Regulatory Registry. Comments on the proposed regulations under the Development Charges Act and the Planning Act may be made through the Environmental Registry of Ontario.

1.2 Summary of Regulatory Themes and Concerns

The following summary briefly describes each regulation proposed by the Province as well as staff concerns and comments. A full description of the regulations can be found in Section 2.0: Proposed Regulations and Staff Concerns.

Regulation for proposed changes to the Planning Act (general)

- **Transition**
  The Province has proposed transitions regarding the changes to the appeals process. While staff have no significant concerns for these transitions, the changes themselves could likely result in an increase of appeals.

- **Community Planning Permit System (CPPS)**
  The Province has proposed a regulation to remove the appeal process for areas where the Minister has issued an order to establish a CPPS. The regulation does not fully address concerns as Bill 108 speaks to prescribed and non-prescribed municipalities.

- **Additional residential units**
  This regulation establishes criteria for additional residential units as authorized by Bill 108. It provides clarity for the City, and staff will review existing policy to ensure compliance.

- **Housekeeping regulatory changes**
  These regulatory changes create consistency in policy and provide clarity for staff.

Regulation for the Proposed Changes to the Development Charges Act

- **Transition**
  The Province has provided transition period for municipalities to adopt a Community Benefits Charges by-law. The transition period provides clarity for staff.

- **Types of development subject to charges deferral**
  This regulation clarifies the types of development that would be subject to development charge deferral. Staff have concerns regarding the deferral for commercial development, as well as the assurance that deferred units intended to be used as a rented residential premises are developed as such.

- **Period of time for which the development charge freeze would be in place**
  The Province has established a development charge freeze period. Staff have no concern with this regulation.

- **Interest rate during deferral and freeze of development charges**
  The Ministry will not prescribe interests rates that municipalities may charge. This regulation does not address City concerns as there is no guidance on how municipalities should formulate interest rates.

- **Additional dwelling units**
  This regulation clarifies dwelling units that would be exempt from development charges. Staff have no concerns about the regulation.

Regulation for the Proposed Changes to the Community Benefits Authority

- **Transition**
  The proposed regulation describes a transition period for collecting funds through community benefits charges. It does not address City concerns as the requirements for the creation of a community benefits strategy are not provided.

- **Reporting on community benefits**
  This regulation describes the new mandatory reporting system for community benefits charges. It provides clarity for staff as it aligns with existing reporting structures in the Planning Act.

- **Reporting on parkland**
  The proposed regulation details mandatory reporting, if a municipality continues to use parkland provisions from the current Planning Act. Staff have no concerns with the regulation as it aligns with existing reporting requirements.

- **Exemptions from Community Benefits**
  This regulation describes the type of development exempted from community benefits collection. Staff have no concerns with the regulation.

- **Community benefits formula**
  This regulation describes the community benefits formula that municipalities will use to calculate capital infrastructure costs. Staff have concerns about this regulation as it is unclear whether the formula will account for London's development context, or ensure that revenues are maintained.

- **Appraisals for community benefits**
  This regulation describes the appraisal process for determining land value for the purpose of collecting community benefits charges. Staff have concerns about the increased administrative burden resulting from the appraisal process, and the lack of an expiration date for landowners to select a third party for final appraisal.

- **Excluded services for community benefits**
  This regulation clarifies the services that will be ineligible for community benefits, and clarifies that parkland acquisition would be an eligible service in a community benefits charge. Staff have no concerns as it aligns with existing policy.

- **Community Planning Permit System (CPPS)**
  This regulation states that community benefits charges cannot be collected in areas with a CPPS. Staff are **very concerned** with this proposal. The current regulation (O. Reg. 173/16) allows a community planning permit by-law to include a condition that requires the provision of specified facilities, services and matters in exchange for a specified height or density of development. The regulation should specify that this condition may not be imposed in an area with a CPPS, rather than prohibiting the use of the CPPS.

Regulations for proposed changes to the Local Planning Appeal Tribunal (L.P.A.T.) Act

- **Transition**
  This regulation provides transition rules for appeals that have already commenced. It does not fully answer staff concerns and may create concerns with ongoing appeals, especially considering the de-novo changes.

- **Revocation of the "Planning Act Appeals" Regulation**

  This regulation revokes a regulation describing procedures removed through Bill 108. Staff have no concerns about this regulation.

Proposed Regulations and Staff Comments

2.0 Regulation for proposed changes to the Planning Act (general)

Staff comments are indicated in *italics* after the summary of the proposed regulation. These comments will form the basis of the City's submission to these proposed regulations.

2.1 Transition

It is proposed that changes to *Ontario Regulation 174/16: "Transitional Matters – General"* be transitioned. The transitions for the changes are summarized as follows:

- The expansion of grounds of appeal for a decision on an official plan/amendment or zoning by-law/amendment, and the new ability for the Local Planning Appeal Tribunal (L.P.A.T) to make any land use planning decision the municipality or approval authority could have made, would apply to appeals of decisions that have not yet been scheduled for a hearing by the L.P.A.T.

- The expansion of the grounds of appeal for non-decision on an official plan/amendment or zoning by-law/amendment and the ability of the Local Planning Appeal Tribunal (L.P.A.T.) to make any land use planning decision would apply to appeals that have not yet been scheduled a merits hearing before the L.P.A.T.

- The removal of appeal for non-key participants and the reduction of timelines for non-decisions would apply to official plans/amendments where the approval authority has not issued a notice of decision at the time of proclamation.

- The removal of appeals, other than by key participants, for appeals of draft plan of subdivision approval / conditions or changes to the conditions, would apply where the notice of decisions to draft approve or change conditions is given on or after the date of proclamation and where conditions are appealed other than at the time of draft approval on or after the date of proclamation.

- The shortened municipal decision timelines would apply to complete applications submitted after Royal Assent.

Certain changes to the *Planning Act* not addressed in the proposed transition regulation would apply immediately upon proclamation.

The above transitions provide clarity for staff. While staff have no significant concerns for these transitions, the changes themselves could likely result in an increase of appeals. Staff will also need to identify the status of ongoing appeals at the time of proclamation.

2.2 Community Planning Permit System (Development Permit System)

Under Bill 108, the ability to appeal official plan policies required by regulation for the establishment of a community planning permit system under the Minister's order would be removed. Furthermore, the Province is proposing that the ability to appeal the implementing by-law also be removed.

This regulation removes the appeal process for areas where the Minister has issued an order to establish a Community Planning Permit System. The regulation does not fully address concerns as Bill 108 speaks to prescribed and non-prescribed municipalities.

In additional, further regulations will need to clarify whether Inclusionary Zoning can only be implemented through an order of the Minister.

2.3 Additional residential units

Under Bill 108, municipalities would be authorized to establish additional residential units in both a detached, semi-detached, and row houses and in an ancillary building or structure. Through the regulation, an additional residential unit would be permitted regardless of owner occupancy of a primary residential unit and construction date of a primary or ancillary building.

The regulation also states that for each of additional residential unit, one parking space is to be provided, and may be provided through tandem parking. In cases where no parking spaces for a primary residential unit are required under a municipal zoning by-law, no parking spaces would be required for its additional residential unit. A municipality would be able to apply its zoning by-law parking standard if this standard is lower than a standard of parking space for additional residential units.

This regulation establishes criteria for additional residential units as authorized by Bill 108. It provides clarity for the City, and staff will review existing policy to ensure compliance.

2.4 Housekeeping regulatory changes

Bill 108 provides for the removal of provisions in the Planning Act for second notice of subdivision applications and provisions for some non-decision appeals for official plans/amendments. The regulation therefore will remove the notice requirements for non-decision of a subdivision application and the notice requirements for non-decision appeals, which would no longer be necessary.

Additionally, Bill 108 provides for section 37 (Increased Density) to be replaced by the proposed provisions in respect of a community benefits charge. Housekeeping changes are required to remove the restrictions and prohibitions in respect of the municipal authority under section 37 (Increased Density) with inclusionary zoning.

These regulatory changes create consistency in policy and provide clarity for staff.

3.0 Regulation for proposed changes to the Development Charges Act (general)

3.1 Transition

It is proposed that the legislative provisions for community benefits charges would come into force on January 1, 2020.

An amendment to the DC Act provides a date to be prescribed in regulation that would establish a deadline for municipalities to transition to the new community benefits changes, unless the municipality will only collect parkland.

The proposed date for municipalities to transition to community benefits is January 1, 2021.

This regulation provides a transition period for municipalities. The transition period provides clarity for staff.

3.2 Types of development subject to charges deferral

Under Bill 108, some types of development would defer payment of development charges until after occupation. This regulatory change defines each of the proposals.

The Minister proposes that the types of developments proposed for development charge deferrals be defined as follows:

- "Rental housing development" means construction, erection or placing of one or more buildings or structures for or the making of an addition or alteration to a building or structure for residential purposes with four or more self-contained units that are intended for use as rented residential premises.
- "Non-profit housing development" means the construction, erection or placing of one or more buildings or structures for or the making of an addition or alteration to a building or structure for residential purposes by a non-profit corporation.
- "Institutional development" means the construction, erection or placing of one or more buildings or structures for or the making of an addition or alteration to a building or structure for:
    - long-term care homes;
    - retirement homes;
    - universities and colleges;
    - memorial homes; clubhouses; or athletic grounds of the Royal Canadian Legion; and
    - hospices
- "Industrial development" means the construction, erection or placing of one or more buildings or structures for or the making of an addition or alteration to a building or structure for:
    - manufacturing, producing or processing anything;
    - research or development in connection with manufacturing, producing or processing anything;
    - storage, by a manufacturer, producer or processor, of anything used or produced in such manufacturing, production or processing if the storage is at the site where the manufacturing, production or processing takes place; or
    - retail sales by a manufacturer, producer or processor of anything produced in manufacturing, production or processing, if the retail sales are at the site where the manufacturing, production or processing takes place.
- "Commercial development" means the construction, erection or placing of one or more buildings or structures for or the making of an addition or alteration to a building or structure for:
    - office buildings as defined under subsection 12(3) in Ontario Regulation 282/98 under the Assessment Act; and
    - shopping centres as defined under subsection 11(3) in Ontario Regulation 282/98 under the Assessment Act.

The above regulation clarifies the types of development that would be subject to development charge deferral. Staff continue to have a concern regarding the deferral for commercial development. Similarly, staff have a concern regarding the assurance that deferred units intended to be used as a rented residential premises are developed as such.

3.3 Period of time for which the development charge freeze would be in place

Under Bill 108, the amount of a development charge would be set at the time Council receives the site plan application, or zoning amendment if there is no site plan application.

The Province is proposing that development charges would be frozen until two years from the date the site plan application is approved, or two years from the date the zoning application is approved if there is no site plan.

This regulation identifies the development charge freeze period. Staff have no concern with this regulation.

3.4 Interest rate during deferral and freeze of development charges

Bill 108 would allow municipalities to charge interest on development charges during the deferral, including during the freeze, from the date the application is received, to the date the development charge is payable.

The Province is not proposing to prescribe a maximum interest rate that may be charged.

The above regulation states that the Ministry will not prescribe interests rates that municipalities may charge, however, it does not address City concerns as there is no guidance on how municipalities should formulate interest rates.

3.5 Additional dwelling units

Bill 108 would allow the creation of an additional dwelling unit in certain residential buildings, including ancillary structures, to be exempt from development charges.

One additional dwelling unit can currently be created in existing single-detached dwellings, semi-detached/row dwellings, without development charges, and this regulation proposes that another unit could be created within these residential buildings or ancillary structures without triggering a development charge.

It is also proposed that within other existing residential buildings, the creation of additional units comprising 1% of existing units would be exempt from development charges.

This regulation clarifies dwelling units that would be exempt from development charges. Staff have no concerns about the regulation.

4.0 Regulation for proposed changes to the Community Benefits Authority

4.1 Transition

Under Bill 108, a municipalities' ability to implement density bonusing would be removed, as would the provision of 'soft services' currently collected through the Development Charges Act. Soft services would instead be funded through a new Community Benefits fund through the *Planning Act*.

Through the proposed regulation, municipalities would have until January 1, 2021, to transition to the community benefits charges system.

The Province has not proposed any regulation regarding a community benefits charge strategy. Under new subsection 37 (9) (b), "any prescribed requirements" have not been clearly defined or proposed. Under Bill 108, municipalities would be required to establish a community benefits strategy before passing a community benefits charge by-law. In order to prepare the strategy, municipalities are required to identify certain facilities, services or matters that will be funded with community benefits charges.

The proposed regulation describes a transition period for collecting funds through community benefits charges. It does not address City concerns, however, as the requirements for the creation of a community benefits strategy are not provided.

4.2 Reporting on community benefits

In the existing section 42 of the Planning Act, municipalities are required to prepare an annual report for the preceding year. This regulation would require municipalities to prepare a report for community benefits charges that would contain information about the community benefits such as: balances of the special account, description of services funded, details on amounts allocated, money borrowed and its purpose, and interest accrued on money borrowed.

Municipalities would be required to prepare an annual report for the preceding year that would provide information about the amounts in the community benefit special account. However, any persons or classes of persons whom the municipality would provide the reports have not been prescribed under new subsection 37 (28) through Bill 108.

This regulation describes the new mandatory reporting system for community benefits charges. It provides clarity for staff as it aligns with existing reporting structures in the Planning Act.

4.3 Reporting on parkland

Under Bill 108, municipalities can continue to use parkland provisions from the current *Planning Act* if they do not collect community benefits charges. Municipalities with special accounts will be required to provide reports on the activities.

The Province is proposing that prescribed requirements for a report for parking provisions would be the same as for a community benefits charges report, mentioned above.

The proposed regulation details mandatory reporting, if a municipality continues to use parkland provisions from the current Planning Act. Staff have no concerns with the regulation as it aligns with the regulation above and existing reporting requirements.

4.4 Exemptions from Community Benefits

Under Bill 108, the Province is authorized to prescribe certain types of development to be exempt from paying community benefits charges. The Province is proposing that the charges would not be imposed for several institutional developments and for non-profit housing development. Exempted developments include:

- long-term care homes
- retirement homes
- universities and colleges
- memorial homes, clubhouses or athletic grounds of the Royal Canadian Legion
- Hospices
- Non-profit housing

Some of these uses that will be exempt from paying community benefits charges may not necessarily provide benefit to the larger public in lieu of the charge. Further exemption for community benefits charges could result in a negative financial impact (e.g. increased debt and/or deferred construction timing).

This regulation describes the type of development exempted from community benefits collection. Staff have no concerns with the regulation.

4.5 Community benefits formula

Municipalities would be authorized to charge for community benefits at their discretion, to fund a range of capital infrastructure for community services, such as libraries, daycare facilities, and recreation facilities, needed for new development.

A proposed community benefits formula would apply to a prescribed percentage to the value of the development land, for any particular development. The used value would be the value on the day before the building issuance.

It is proposed that a range of percentages will be prescribed to take into account varying values of land. The Province is not currently providing prescribed percentages, however, the Province is seeking feedback on the determination of the range of percentages and the development of the formula. Further consultation on the formula will be held in late summer.

Further exemptions for community benefits charges through the proposed regulation changes could complicate the determination of the formula. The formula could also not be advantageous for municipalities across Ontario.

This regulation describes the community benefits formula that municipalities will use to calculate capital infrastructure costs. Staff have concerns about this regulation as it is unclear whether the formula will account for London's development context, or ensure that revenues collected from soft service DCs, parkland dedication and density bonusing will be maintained.

4.6 Appraisals for community benefits

Bill 108 provides that a landowner would provide a municipality with an appraisal of a proposed development site if they are of the view that the amount of a community benefits charge exceeds what is permitted by legislation. In response, the municipality can provide the owner with a land appraisal if it is of the view that the owner's appraisal is inaccurate. If the two appraisals differ by more than 5 percent, a third appraisal would be prepared. The Province proposes new time limits for appraisals between the owner and the municipality, as follows:

- The landowner would have 30 days to provide the municipality with an appraisal if they believe the amount of community benefit charges exceeds the amount legislatively permitted.
- The municipality would have 45 days to provide the owner with an appraisal if it believes the owner's appraisal is inaccurate.
- A third appraisal would be required to be provided by an appraiser selected by the owner from a municipal list of appraisers within 60 days, if the two appraisals differ by more than 5%.

The appraisal approach could take longer to resolve disputes between a landowner and a municipality than the proposed time periods.

This regulation describes the appraisal process for determining land value for the purpose of collecting community benefits charges. Staff have concerns about the increased administrative burden resulting from the appraisal process, and the lack of an expiration date for landowners to select a third party for final appraisal.

4.7 Excluded services for community benefits

Under Bill 108, certain facilities, services or matters would be prescribed for which community benefits charges cannot be imposed and cannot be funded from community benefits charges. The Province proposes to prescribe the facilities, services or matters as follows:

- cultural or entertainment facilities
- tourism facilities
- hospitals
- landfill sites and services
- facilities for the thermal treatment of waste
- headquarters for the general administration of municipalities and local boards

This would be consistent with the ineligible services list under the current *Development Charges Act*, except that land for parks would now be an eligible service.

This regulation clarifies the services that will be ineligible for community benefits, and clarifies that parkland acquisition would be an eligible service in a community benefits charge. Staff have no concerns as it aligns with existing policy.

4.8 Community planning permit system

A Community Planning Permit System (CPPS) is considered as a system which provides specified community facilities or services. Through the proposed regulation, a community benefit charge by-law would not be available in areas within a municipality where a community planning permit system is in effect.

This regulation states that community benefits charges cannot be collected in areas with a CPPS. Staff are ***very concerned*** *with this proposal. The current regulation (O. Reg. 173/16) allows a community planning permit by-law to include a condition that requires the provision of specified facilities, services and matters in exchange for a specified height or density of development.*

The proposed regulation would not permit the City to collect a community benefits charge, which is a charge to collect fees related to community benefits that may be required as a result of new development, if it has community planning permit system in effect, which is a tool that may be used to combine planning processes related to development (zoning, site plan and minor variances).

The City is currently in the process of developing a new Zoning By-law to implement The London Plan. The proposed regulation would establish an "either/or" condition, whereby the City would not be able to collect a community benefit charge if it uses a CPPS as a means of implementing the new official plan.

Rather than state that a community benefits charge cannot be collected where a CPPS is implemented, the proposed regulation could clarify that a condition in a CPPS that would require the provision of specified facilities services and matters in exchange for specified height or density could not be applied where a community benefits charge would apply. The regulation should specify that this condition to require the provision of facilities services and matters may not be imposed in an area with a CPPS, rather than prohibiting the use of the CPPS.

This would clarify that there are not two opportunities to collect a charge relates to a community benefit through two different processes.

5.0 Regulation for proposed changes to the Local Planning Appeal Tribunal (L.P.A.T) Act

Under the amended L.P.A.T. Act through Bill 108, restrictions on oral testimony and submissions at hearings of major land use planning appeals (e.g. appeals of official plans or zoning by-laws) before the Tribunal would be removed. The Ministry of the Attorney General is proposing new regulations to the Act that would set out transition rules for these appeals and revoke the existing "Planning Act Appeals" regulation under the Act.

5.1 Transition

Through the proposed regulation in respect of transition rules, the amended L.P.A.T. Act would apply to:

- A major land use planning appeal that was commenced and continued under the former Ontario Municipal Board (O.M.B.) Act, except for the requirement to hold a case management conference.
- A major land use planning appeal that was commended under the former O.M.B. Act and continued under the existing L.P.A.T. Act, or a major land use planning

appeal that was commended under the existing L.P.A.T. Act, except where a hearing on the merits of the appeal has been scheduled before the amendments come into force. If a hearing on the merits of the appeal has been scheduled before that day, the existing L.P.A.T. Act would continue to apply to the appeal.

- A major land use planning appeal commenced on or after the day the amendments to the Act come into force.

This regulation provides transition rules for appeals that have already commenced. It does not fully answer staff concerns and may create concerns with ongoing appeals, especially considering the de-novo changes.

5.2 Revocation of the "Planning Act Appeals" Regulation

The existing regulation under the Act prescribes timelines, time limits and procedures for Planning Act appeals, such as limitation of examination or cross-examination of parties and witnesses in these appeals. As the regulation would be no longer relevant to the amended L.P.A.T. Act, the Province is proposing the revocation.

This regulation revokes a regulation describing procedures removed through Bill 108. Staff have no concerns about this regulation.

6.0 Conclusion

Staff will provide a submission to the Province's consultation on Bill 108 the *More Homes, More Choices Act, 2019*. The submission will identify the municipality's concerns on the proposed regulation changes and actions that the Province could address such concerns.

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Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from City Planning Services

July 15, 2019

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Appendix A – Proposed Regulation Changes

Copy of the Consultation Documents:

- "Proposed new regulation and regulation changes under the Planning Act, including transition matters, related to Schedule 12 of Bill 108 – the More Homes, More Choice Act, 2019"
- "Proposed changes to O. Reg. 82/98 under the Development Charges Act related to Schedule 3 of Bill 108 – More Homes, More Choice Act, 2019"
- "Proposed new regulation pertaining to the community benefits authority under the Planning Act"

A.1 Proposed new regulation and regulation changes under the Planning Act, including transition matters, related to Schedule 12 of Bill 108 – the More Homes, More Choice Act, 2019

1. Transition

Proposed changes to the transition regulation (*O. Reg. 174/16: "Transitional Matters – General"*) would set out rules for planning matters in-process at the time certain components of Schedule 12 to Bill 108 are proclaimed. The proposed transition regulation changes would provide certainty regarding the processing and decision-making on planning matters.

Certain changes to the *Planning Act* through Schedule 12 to Bill 108 that are not addressed in the proposed transition regulation would apply immediately upon the coming into force of those changes.

Proposed content

It is proposed that the following changes which are part of Schedule 12 to Bill 108 be transitioned as follows:

- Expanding the grounds of appeal of a decision on an official plan/amendment or zoning by-law/amendment and allowing the Local Planning Appeal Tribunal to make any land use planning decision the municipality or approval authority could have made would apply to:
    - appeals of decisions that have not yet been scheduled for a hearing by the Local Planning Appeal Tribunal regarding the merits of the matter before the Tribunal
- Expanding the grounds of appeal of a lack of decision on an official plan/amendment or zoning by-law amendment and allowing the Local Planning Appeal Tribunal to make any land use planning decision the municipality or approval authority could have made would apply to:
    - appeals of the failure of an approval authority or municipality to make a decision within the legislated timeline that have not yet been scheduled for a hearing by the Local Planning Appeal Tribunal regarding the merits of the matter before the Tribunal
- The removal of appeals other than by key participants (e.g. the province, municipality, applicant) and the reduction of approval authority decision timelines for non-decisions of official plan/amendments would apply where the approval authority has not issued a notice of decision at the time the proposed changes come into force.

- The removal of appeals other than by key participants (e.g. the province, municipality, applicant, utility companies, etc.) for draft plan of subdivision approvals, conditions of draft plan of subdivision approvals or changes to those conditions would apply where:
    - the notice of the decision to draft approve or change conditions is given, or
    - conditions are appealed other than at the time of draft approval

  on or after the day the proposed changes come into force (e.g., appeals made during appeal periods that begin once the proposed changes come into force)

- The reduction for decision timelines on applications for official plan amendments (120 days), zoning by-law amendments (90 days, except where concurrent with official plan amendment for some proposal) and plans of subdivision (120 days) would apply to complete applications submitted after Royal Assent.

2. Community Planning Permit System

The community planning permit system is a framework that combines and replaces the individual zoning, site plan and minor variance processes in an identified area with a single application and approval process. *O. Reg.173/16 "Community Planning Permits"* outlines the various components that make up the system, including the matters that must be included in the official plan to establish the system, the process that applies to establishing the implementing by-law and the matters that must or may be included in the by-law.

Proposed content

Schedule 12 to Bill 108 includes provisions to remove the ability to appeal the official plan policies required by regulation for the establishment of a community planning permit system when the Minister issues an order to require a local municipality to adopt or establish a system. To further facilitate the implementation of the system, a change is also proposed to the community planning permit regulation that would remove the ability to appeal the implementing by-law. This change would support the streamlining of development approvals in areas where the Minister required a community planning permit system to be established.

3. Additional Residential Unit Requirements and Standards

The *Planning Act* currently requires municipalities to authorize in their official plans and zoning by-laws the use of second residential units in either a detached, semi-detached, and row house or in an ancillary buildings and structures (e.g., above laneway garages or coach houses).

Schedule 12 to Bill 108 includes provisions to require municipalities to authorize in their official plans and zoning by-laws the use of an additional residential unit in both a detached, semi-detached, and row houses and in an ancillary building or structure (e.g., above laneway garages or coach houses).

Proposed content

A regulation is proposed under s. 35.1(2)(b) of the *Planning Act* setting out requirements and standards to remove barriers to the establishment of additional residential units, as follows:

- One parking space for each of the additional residential units which may be provided through tandem parking

- Where a municipal zoning by-law requires no parking spaces for the primary residential unit, no parking spaces would be required for the additional residential units

- Where a municipal zoning by-law is passed that sets a parking standard lower than a standard of one parking space for each of the additional residential units, the municipal zoning by-law parking standard would prevail

- "Tandem parking" would be defined as a parking space that is only accessed by passing through another parking space from a street, lane or driveway

- An additional residential unit, where permitted in the zoning by-law, may be occupied by any person in accordance with s. 35(2) of the *Planning Act*, and, for greater clarity, regardless of whether the primary unit is occupied by the owner of the property, and

- An additional residential unit, where permitted in the zoning by-law, would be permitted without regard to the date of construction of the primary or ancillary building.

4. Housekeeping regulatory changes

a. Regulations under the *Planning Act* currently provide for requirements on how to give notice for various matters, including when a municipality is required to notify the public of subdivision applications and when it intends to establish a time frame for non-decision appeals for official plans/amendments.

Proposed content

As Schedule 12 to Bill 108 provides for the removal of provisions in the *Planning Act* for second notice of subdivision applications and provisions for some non-decision appeals for official plans/amendments, housekeeping changes are required in O. Reg. 544/06 "Plans of Subdivision" and O. Reg. 543/06 "Official Plans and Plan Amendments" to remove the redundant notice of a subdivision application and the notice requirements for non-decision appeals, which would no longer be necessary.

b. Regulations under the *Planning Act* provide for requirements to implement inclusionary zoning including restrictions and prohibitions on the authority under section 37 (Increased Density) when inclusionary zoning is authorized.

Proposed content

Schedule 12 to Bill 108 provides for section 37 (Increased Density) being replaced by the proposed provisions in respect of a community benefits charge. Housekeeping changes are required to amend *O. Reg. 232/18: "Inclusionary Zoning"* to remove the restrictions and prohibitions in respect of the municipal authority under section 37 (Increased Density) with inclusionary zoning.

A.2 Proposed changes to O. Reg. 82/98 under the Development Charges Act related to Schedule 3 of Bill 108 – More Homes, More Choice Act, 2019

1. Transition

The amendments in Schedule 12 of the *More Homes, More Choice Act, 2019* would, upon proclamation, provide transitional provisions for section 37, and section 42 under the *Planning Act*, and in Schedule 3 of the Act provide transitional provisions for development charges for discounted services (soft services) under the *Development Charges Act* to provide for the flexibility necessary for municipalities to migrate to the community benefits charge authority.

Municipalities would be able to transition to the community benefits charge authority once the legislative provisions come into force (as will be set out in proclamation). It is proposed that the legislative provisions related to community benefits charges would come into force on January 1, 2020.

An amendment to the *Development Charges Act, 1997* provides for a date to be prescribed in regulation that would effectively establish a deadline as to when municipalities must transition to the community benefits authority if they wish to collect for the capital costs of community benefits from new development (unless a municipality will only collect parkland).

Proposed content

The Minister proposes that the specified date for municipalities to transition to community benefits is January 1, 2021.

From this date to beyond:

- Municipalities would generally no longer be able to collect development charges for discounted services

2. Scope of types of development subject to development charges deferral

The province recognizes that development charges are one of the many demands on cashflow for new development. Mandating the deferral of development charge alleviates some pressure on cashflow which could increase the likelihood of riskier, cost-sensitive housing projects, such as purpose-built rentals proceeding. As such, amendments to the *Development Charges Act* made by Schedule 3 of the *More Homes, More Choice Act, 2019* would, upon proclamation, provide for the deferral of development charges for rental housing development; non-profit housing development; institutional development; industrial development; and commercial development until occupancy.

The proposed regulatory change would provide further detail concerning what constitutes rental housing; non-profit housing; institutional development; industrial development; and commercial development.

Proposed content

The Minister proposes that the types of developments proposed for development charge deferrals be defined as follows:

- "Rental housing development" means construction, erection or placing of one or more buildings or structures for or the making of an addition or alteration to a building or structure for residential purposes with four or more self-contained units that are intended for use as rented residential premises
- "Non-profit housing development" means the construction, erection or placing of one or more buildings or structures for or the making of an addition or alteration to a building or structure for residential purposes by a non-profit corporation.
- "Institutional development" means the construction, erection or placing of one or more buildings or structures for or the making of an addition or alteration to a building or structure for:
    - long-term care homes;
    - retirement homes;
    - universities and colleges;
    - memorial homes; clubhouses; or athletic grounds of the Royal Canadian Legion; and
    - hospices

- "Industrial development" means the construction, erection or placing of one or more buildings or structures for or the making of an addition or alteration to a building or structure for:
    - manufacturing, producing or processing anything,
    - research or development in connection with manufacturing, producing or processing anything,
    - storage, by a manufacturer, producer or processor, of anything used or produced in such manufacturing, production or processing if the storage is at the site where the manufacturing, production or processing takes place, or
    - retail sales by a manufacturer, producer or processor of anything produced in manufacturing, production or processing, if the retail sales are at the site where the manufacturing, production or processing takes place.
- "Commercial development" means the construction, erection or placing of one or more buildings or structures for or the making of an addition or alteration to a building or structure for:
    - office buildings as defined under subsection 12(3) in *Ontario Regulation 282/98* under the *Assessment Act*; and
    - shopping centres as defined under subsection 11(3) in *Ontario Regulation 282/98* under the *Assessment Act*.

3. Period of time for which the development charge freeze would be in place

In order to provide greater certainty of costs, amendments to the *Development Charges Act* made by Schedule 3 to the *More Homes, More Choice Act, 2019* would, upon proclamation, provide that the amount of a development charge would be set at the time council receives the site plan application for a development; or if a site plan is not submitted, at the time council receives the application for a zoning amendment (the status quo would apply for developments requiring neither of these applications).

The proposed regulatory change would establish the period in which the development charge rate freeze will be in place.

Proposed content

In order to encourage development to move to the building permit stage so that housing can get to market faster and provide greater certainty of costs, the Minister is proposing that the development charge would be frozen until two years from the date the site plan application is approved, or in the absence of the site plan application, two years from the date the zoning application was approved.

4. Interest rate during deferral and freeze of development charges

Amendments to the *Development Charges Act* in Schedule 3 to the *More Homes, More Choice Act, 2019* would, upon proclamation, provide for municipalities to charge interest on development charges payable during the deferral. It also provides for municipalities to charge interest during the development charge 'freeze' from the date the applicable application is received, to the date the development charge is payable. In both cases, the interest cannot be charged at a rate above a prescribed maximum rate.

Proposed content

The Minister is not proposing to prescribe a maximum interest rate that may be charged on development charge amounts that are deferred or on development charges that are frozen.

5. Additional dwelling units

In order to reduce development costs and increase housing supply the *Development Charges Act* as amended by Schedule 3 to the *More Homes, More Choice Act, 2019* would, upon proclamation, provide that:

- the creation of additional dwelling in prescribed classes of residential buildings and ancillary structures does not trigger a development charge; and
- the creation of a second dwelling unit in prescribed classes of new residential buildings, including ancillary structures, is exempt from development charges.

Proposed content

The existing *O. Reg. 82/98* prescribes existing single detached dwellings, semi-detached/row dwellings and other residential buildings as buildings in which additional residential units can be created without triggering a development charge and rules related to the maximum number of additional units and other restrictions. It is proposed that this regulation be amended so that units could also be created within ancillary structures to these existing dwellings without triggering a development charge (subject to the same rules/restrictions).

It is also proposed that one additional unit in a new single detached dwelling; semi-detached dwelling; and row dwelling, including in a structure ancillary to one of these dwellings, would be exempt from development charges.

It is also proposed that within other existing residential buildings, the creation of additional units comprising 1% of existing units would be exempt from development charges.

A.3 Proposed new regulation pertaining to the community benefits authority under the Planning Act

1. Transition

The amendments to the *Planning Act* in Schedule 12 of the *More Homes, More Choice Act, 2019* provide transitional provisions for section 37, and section 42 under the *Planning Act*, and development charges for discounted services (soft services) under the *Development Charges Act* to provide the flexibility necessary for municipalities to migrate to the community benefits charge authority.

An amendment to the *Development Charges Act, 1997* provides for a date to be prescribed in regulation that would effectively establish a deadline as to when municipalities must transition to the community benefits authority if they wish to collect for the capital costs of community benefits from new development. Beyond the date prescribed in regulation:

- Municipalities would generally no longer be able to collect development charges for discounted services
- Municipalities would generally no longer be able to pass by-laws to collect funds under section 37 of the *Planning Act*

Proposed content

It is proposed that the specified date for municipalities to transition to community benefits is January 1, 2021.

2. Reporting on community benefits

The amendments to the *Planning Act* in Schedule 12 of the *More Homes, More Choice Act, 2019* provide for municipalities that pass a community benefits by-law to provide

the reports and information that may be prescribed in the regulation to persons prescribed in regulation

Proposed content

In order to ensure that community benefit charges are collected and spent on community benefits in a transparent manner, and for greater accountability, the Minister is proposing to prescribe reporting requirements that are similar to existing reporting requirements for development charges and parkland under section 42 of the *Planning Act*.

Municipalities would be required annually to prepare a report for the preceding year that would provide information about the amounts in the community benefits charge special account, such as:

- Opening and closing balances of the special account
- A description of the services funded through the special account
- Details on amounts allocated during the year
- The amount of any money borrowed from the special account, and the purpose for which it was borrowed
- The amount of interest accrued on money borrowed

3. Reporting on parkland

The amendments to the *Planning Act* in Schedule 12 of the *More Homes, More Choice Act, 2019* provide that municipalities may continue using the current basic parkland provisions of the *Planning Act* if they are not collecting community benefits charges. Municipalities with parkland special accounts will be required to provide the reports and information that may be prescribed in the regulation to persons prescribed in regulation.

Proposed content

In order to ensure that cash-in-lieu of parkland is collected and used in a transparent manner, the Minister is proposing to prescribe reporting requirements for parkland.

Municipalities would be required annually to prepare a report for the preceding year that would provide information about the amounts in the special account, such as:

- Opening and closing balances of the special account
- A description of land and machinery acquired with funds from the special account
- Details on amounts allocated during the year
- The amount of any money borrowed from the special account, and the purpose for which it was borrowed
- The amount of interest accrued on money borrowed

4. Exemptions from community benefits

To help reduce the costs to build certain types of development that are in high demand, amendments to the *Planning Act* in Schedule 12 of the *More Homes, More Choice Act, 2019* provides for the Minister to prescribe such types of development or redevelopment in respect of which a community benefits charge cannot be imposed.

Proposed content

The Minister is proposing that the following types of developments be exempt from charges for community benefits under the *Planning Act*:

- Long-term care homes
- Retirement homes
- Universities and colleges
- Memorial homes, clubhouses or athletic grounds of the Royal Canadian Legion
- Hospices
- Non-profit housing

5. Community benefits formula

The amendments to the *Planning Act* in Schedule 12 of the *More Homes, More Choice Act, 2019*, provide the authority for municipalities to charge for community benefits at their discretion, to fund a range of capital infrastructure for community services needed because of new development.

This capital infrastructure for community services could include libraries, parkland, daycare facilities, and recreation facilities.

For any particular development, the community benefits charge payable could not exceed the amount determined by a formula involving the application of a prescribed percentage to the value of the development land. The value of land that is used is the value on the day before the building permit is issued to account for the necessary zoning to accommodate the development.

Proposed content

It is proposed that a range of percentages will be prescribed to take into account varying values of land.

In determining the prescribed percentages, there are two goals.

- Firstly, to ensure that municipal revenues historically collected from development charges for "soft services", parkland dedication including the alternative rate, and density bonusing are maintained.
- Secondly, to make costs of development more predictable.

This Ministry is not providing prescribed percentages at this time. However, the Ministry would welcome feedback related to the determination of these percentages. There will be further consultation on the proposed formula in late summer.

6. Appraisals for community benefits

The authority to charge for community benefits under the *Planning Act* would enable municipalities, at their discretion, to fund a range of capital infrastructure for community services needed because of new development.

For any particular development, the community benefits charge payable could not exceed an amount determined by a formula involving the application of a prescribed percentage to the value of the development land on the day before the building permit is issued.

The amendments to the *Planning Act* in Schedule 12 of the *More Homes, More Choice Act, 2019* provide for the owner of land proposing to develop a site, to provide the municipality with an appraisal of the site they are of the view that the community benefits charge exceeds what is legislatively permitted. Similarly, a municipality can also provide the owner of land with an appraisal if it is of the view that the owner of the land's appraisal is inaccurate. If both appraisals differ by more than 5 percent, a third appraisal is prepared.

Proposed content

The Minister is proposing the following:

- If the owner of land is of the view that the amount of a community benefits charge exceeds the amount legislatively permitted and pays the charge under protest, the owner has 30 days to provide the municipality with an appraisal of the value of land.
- If the municipality disputes the value of the land in the appraisal provided by the owner, the municipality has 45 days to provide the owner with an appraisal of the value of the land.
- If the municipality's appraisal differs by more than 5 percent from appraisal provided by the owner of the land, the owner can select an appraiser from the municipal list of appraisers, that appraiser's appraisal must be provided within 60 days.

7. Excluded services for community benefits

Amendments to the *Planning Act* in Schedule 12 of the *More Homes, More Choice Act, 2019* provide that community benefits charges cannot be imposed for facilities, services or matters associated with services eligible for collection under the *Development Charges Act, 1997*. It also provides for the province to prescribe facilities, services or matters in respect of which community benefit charges cannot be imposed.

Proposed content

The Minister is proposing to prescribe that the following facilities, services or matters be excluded from community benefits:

- Cultural or entertainment facilities
- Tourism facilities
- Hospitals
- Landfill sites and services
- Facilities for the thermal treatment of waste
- Headquarters for the general administration of municipalities and local boards

This would be consistent with the ineligible services list currently found under the *Development Charges Act*.

8. Community planning permit system

The community planning permit system is a framework that combines and replaces the individual zoning, site plan and minor variance processes in an identified area with a single application and approval process. *O. Reg. 173/16 "Community Planning Permits"* outlines the various components that make up the system, including the matters that must be included in the official plan to establish the system, the process that applies to establishing the implementing by-law and the matters that must or may be included in the by-law.

Proposed content

Amendments to the *Planning Act* in the *More Homes, More Choice Act, 2019* establish a new authority for municipalities to levy charges for community benefits to make requirements in this regard more predictable. As the community planning permit system also allows conditions requiring the provision of specified community facilities or services, it is proposed that a community benefits charge by-law would not be available for use in areas within a municipality where a community planning permit system is in effect.