Corporate Services
The City of Cambridge
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Municipal Finance Policy Branch
Municipal Affairs and Housing
Attn: John Ballantine, Manager
13th Floor, 777 Bay St.
Toronto , ON M5G 2E5

Re: 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

Please find attached the City of Cambridge's staff comments on the above noted regulation proposal as a result of Bill 108 – the More Homes, More Choice Act.

Yours truly,

Sheryl Ayres
Chief Financial Officer

Attach.

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

Bill 108 - the More Homes, More Choice Act, 2019 received Royal Assent on June 6, 2019. Schedule 3 of the Act makes amendments to the Development Charges Act to reduce development costs and provide more housing options to help make housing more attainable for the people of Ontario. There are provisions in the Act that require additional details to be prescribed by regulation. The following are matters that the province is proposing to prescribe in regulation.

Regulatory Changes:

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	**City of Cambridge Comments**
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	Given the formula and process for approving a community benefits by-law are yet to be developed, it will be very difficult to complete the analysis, study work, and stakeholder consultation necessary to implement a community benefits charge by January 1, 2021. Many municipalities throughout the Province currently collect soft services development charges, and it is unlikely that the consultants engaged in supporting municipalities with background studies such as the community benefits charge would be able to accommodate all municipalities within this short timeframe. This would result in lost revenue for municipalities. Many municipalities have recently implemented new Development Charge

	By-laws (including the City of Cambridge, effective July 1, 2019) which involved significant time and costs. These will need amended to reflect certain changes beyond removing soft services (i.e. removing the 10% mandatory deduction on the development charge background study costs). It is impractical and costly to redo work in such short timeframe as January 1, 2021. For this reason as well as January 1, 2021 being too short of a timeframe, it is recommended that the transition period be extended to the date of expiry of the municipality's current by-law. At very minimum, the hard transition date of January 1, 2021 should be deferred to January 1, 2023. There is a potentially significant gap in section 51.1 of the *Planning Act* which would effectively immunize all future redevelopment within an area of a plan of subdivision approved between the date the new section 37 of the *Planning Act* (which authorizes the CBC) comes into force, and the date an actual CBC by-law is passed, from all future CBC payments (or, alternatively, require the municipality to not require parkland or CIL as a condition of the subdivision). Subdivision agreements entered into prior to January 2021 (and even prior to announcement of proposed legislation changes) may include parkland dedication, preventing the municipality from recovering soft services charges if building permits are pulled subsequent to January 2021. This would not meet the province's stated goal of revenue neutrality. Correcting this likely requires a legislative change.

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	**City of Cambridge Comments**
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: o long-term care homes; o retirement homes; o universities and colleges; o memorial homes; clubhouses; or athletic grounds of the Royal Canadian Legion; and o 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: o manufacturing, producing or processing anything, o research or development in connection with manufacturing,	The landowner may change during the period when payments are being made. The legislation/regulations should make it clear that it is the owner at the time of each installment due date who is responsible for paying, and that municipalities may register the obligation on title. It is recommended that the DC installments have priority lien status so they have priority over prior mortgages and other encumbrances. The definition of "Rental housing development" uses the term "intended". However, under proposed 26.1(9) if the development type changes to a category that would not have been eligible for deferral, then the DCs are payable in full immediately. Clarification is required on this discrepancy. It is recommended that the word "intended" in the regulation be replaced so that the development must remain as rental housing in order for its DCs to continue to be deferred. Likewise with non-profit housing development, clarity that the development remains as non-profit housing throughout the term of the deferral is recommended. It is recommended that "non-profit housing" be defined to require affordable rents, not only at the time of occupancy but ongoing. Long-term care homes and retirement homes are considered by the City of Cambridge and other municipalities as

producing or processing anything, o 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 o 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: o office buildings as defined under subsection 11(3) in Ontario Regulation 282/98 under the Assessment Act; and o shopping centres as defined under subsection 12(3) in Ontario Regulation 282/98 under the Assessment Act.	residential developments with charges imposed based on number of dwelling units. Does this require these developments to be charged as non-residential developments based on gross floor area of development? Confirm all other types of commercial will continue to be charged fully at the time of building permit issuance.

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	**City of Cambridge Comments**
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	A limit has been proposed under the regulations to encourage applications proceeding to development in a timely manner (2 years from approval).

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	However, there remain concerns that the legislation may provide for abuse where landowners/developers may apply for minor zoning changes in order to freeze their DC for several years, or will submit incomplete site plan control or zoning amendment applications simply to freeze the rates at an earlier date. This would increase the administration of the municipality in reviewing and responding to these applications. The proposed freeze period of 2 years is too long, does not motivate development activity to proceed as is the Province's stated goal. It is recommended this be limited to one year. Providing the ability to freeze rates prior to the passage of an updated DC background study and by-law would result in loss revenues for the municipality, not meeting the Province's stated revenue neutrality objective. It is recommended that a freeze in rates should not survive the passage of a new DC bylaw. The transition for this section remains unclear. If at the date the legislation comes into force (expected January 1, 2020) a developer has already previously submitted a site plan control or zoning amendment application, and it has not been approved, are they frozen at the date of submission or at January 1, 2020 or not frozen at all? Does this change if it has been 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	**City of Cambridge Comments**

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.	No comments at this time.

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	**City of Cambridge Comments**
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).	No comments at this time.
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 recommended that the regulations be clear that if one additional unit is created in a new dwelling, that this dwelling then would not be eligible for exemption for a future additional unit (once the dwelling is considered “existing”). Please provide a definition of “row dwelling”. i.e. does it include stacked and/or back-to-back townhouses? Please also provide definition of ancillary structures for clarity.
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.	The clause relating to the creation additional units comprising 1% of existing units is unclear and should be further defined or removed all together.