



Town of Milton
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August 21, 2019

Mr. John Ballantine
Manager, Municipal Finance Policy Branch
Municipal Affairs and Housing
13th Floor, 777 Bay Street
Toronto, Ontario M5G 2E5

Dear Mr. Ballantine:

Re: ERO Number 019-0183 Proposed new regulation pertaining to the community benefits authority under the Planning Act

On July 22, 2019, through report [CORS-047-19 Legislative Update: Bill 108: More Homes, More Choice Act, 2019](#), Town of Milton Council authorized staff to prepare and submit a formal response to ERO Number 019-0183 regarding the proposed new regulation pertaining to the community benefits authority under the Planning Act.

The intent of Bill 108, as positioned by the Province, is to increase housing supply, cut red tape to make it easier and faster to build new housing and to make housing more affordable across the Province. Furthermore, the legislation was intended to make the costs of building new homes more predictable and encourage developers to build more housing.

Milton supports the intent of Bill 108. The Town does, however, believe that there are more effective alternatives to achieving the Province's goals.

- The Minister has noted that streamlining the rate structures by reducing the number of different charges was a desired outcome of this process. An opportunity has been missed, however, to fully integrate the charges as a new Community Benefit Charge (CBC) structure has been created (versus further leveraging the existing development charge framework).
- The new CBC does not achieve increased predictability in development costs as the charge is based on appraised land values that can fluctuate over time. Not only does the charge create uncertainty, it also creates volatility risk for municipal cash flows and therefore the resulting infrastructure needed to support growth.
- The utilization of multiple rate structures along with the additional volume of appraisals increases administration costs and time for processing, which combined work against the desired outcomes of Bill 108.

Milton believes the Province's goals could be better achieved by consolidating the growth infrastructure funding legislation for parkland and density bonusing from the Planning Act into the Development Charges Act, 1997 (DCA), thereby creating one comprehensive and predictable rate structure. Once consolidated, and when combined with the other legislative changes related to the timing for determining the DC amount and installment payments, the new structure would better support the Provinces' goals and ensure municipalities and developers are able to work cooperatively to increase both the supply and affordability of housing.

Understanding Milton's overarching concerns regarding the legislation as written, the following summarizes Milton's perspectives on the proposed new regulation pertaining to the community benefits authority under the Planning Act posted under ERO Number 019-0183.

1. Transition

The proposed regulation provides for transition to the new CBC authority during the period of January 1, 2020 to January 1, 2021. In addition to completing both a development charge background study and community benefits strategy, implementing the extensive changes from Bill 108 will require new business processes and software to track the calculation, collection and deferral of development charge and CBC payments. A successful implementation will require a significant investment of human and financial resources that will place a strain on municipal services in the short-term to meet the proposed transition deadline. Furthermore, there are minimal consulting firms in Ontario able to support the hundreds of Ontario municipalities in developing the DC background study and community benefits strategy needed to implement the new legislation. **Milton recommends the prescribed transition period should provide at least a 2-year transition period following the enactment of the regulations.**

Given that the new CBC regime is unique and has no precedence that we are aware of, **the Town also suggests further consultation as well as the opportunity for municipalities to test the proposed caps in the context of their local communities.**

Finally, as municipalities have existing agreements with landowners with respect to the conveyance of parkland and other services, **the Town requests that such existing agreements be recognized.**

2. Reporting on community benefits

As the proposed reporting requirements are similar to the existing requirements for development charges and parkland, Milton has no concerns.

3. Reporting on parkland

Milton has no concerns.

4. Exemptions from community benefits

The proposed regulation provides exemptions for various development types; however, it does not provide any clear definitions leaving the terms open for interpretation. **Milton recommends the regulation align the definitions of the various exempt development types with definitions that already exist under current legislation** with consideration to the following:

- a. Long-term care homes as defined in the Long-Term Care Homes Act, 2007.
- b. Retirement homes as defined in the Retirement Homes Act, 2010 to ensure for profit retirement homes and condominium developments marketed to seniors do not benefit from this exemption.
- c. Universities and colleges be restricted to developments that are solely owned by academic institutions, as defined in ss.2(1) of the Freedom of Information and Protection and Privacy Act, 1990 and excluding those defined in ss.1(1) of the Private Career Colleges Act, 2005. Furthermore, the Province should clarify if the exemption is solely on the academic space or if it includes other uses such as student residences.

Furthermore, the regulation proposes an exemption for non-profit housing developments; however, this development type is not defined and the intent is unclear. **Milton requests the Province clarify the definition of non-profit housing and give further consideration to sales by non-profit housing corporations to for-profit corporations.**

Finally, **the Town recommends caution and further consideration of any unintended consequences of exempting several of the development types identified.** Uses such as retirement homes, universities and colleges and non-profit housing will contribute to the greater need for services and infrastructure, and blanket exemptions may transfer costs to existing taxpayers from more than just the potentially vulnerable groups the regulation intends to better support.

5. CBC formula

Milton supports the Provinces' two goals outlined in the proposed content: to maintain the revenue levels provided from development charges, parkland dedication, and density bonusing and to make the costs of development more predictable. In developing the prescribed formula and range of percentages, the Province should permit the formula to capture 100% of growth costs by aligning the prescribed cap with the costs to service growth, similar to the current DC regime. The prescribed formula must be flexible enough to reflect local circumstances, service levels, and cost structures. There also needs to be a mechanism to provide for indexing to reflect changing costs and land values between community benefit strategy reports.

As noted above, **Milton does not believe the new CBC will achieve increased predictability in development costs as the charge is based on land values that can be volatile.** Predictability in revenue streams is critical for municipalities to plan long-term investment in growth infrastructure. The percentage cap and formula must be flexible enough to adjust for sudden changes in land values to ensure adequate funds are collected to provide the necessary growth-related community benefits. To help illustrate the basis of the Town's concerns in this regard, the following describes the Town's recent experience involving appraisal forecasting:

- Historically, Milton has used benchmark land values as a basis for calculating cash-in-lieu of parkland under section 42 of the Planning Act (in addition to than site specific land appraisals). In May 2019, following an external review of the process by Antec Appraisal Group (Antec), the Town moved to site specific appraisals for all developments subject to section 42 ([report COMS-006-19](#)). **Antec recommended the use of benchmarks be discontinued as they do not accurately reflect the constantly changing real estate market or take into consideration the complexity of factors influencing property values such as location, zoning, site characteristics, etc.** If benchmark values are no longer recommended by industry professionals, it is unclear how the municipality will calculate the CBC in a manner that will remain appropriate throughout the desired time horizon of a CBC strategy report.

The Town would also like to note that the legislation and regulations currently do not address how the CBC will be implemented in a two-tier municipal system. As both Milton and the Region of Halton will have needs arising from the CBC charge, **Milton recommends the regulation and/or formula provide guidance on the process for how the percentage of the value of land will be allocated between local and regional levels of government.**

6. Appraisals for the CBC

The regulation currently prescribes specific timeframes (30, 45 and 60 days) within which appraisals must be produced by either the owner or the municipality. Given the additional volume of appraisals that will be required going forward to implement the legislation as written, **the Province should evaluate and ensure that the land appraiser industry will be capable of supporting these time horizon in all circumstances.** Milton further requests that clarity be provided within the regulation as to when the timelines begin for the appraisal appeals period, and that any reference to 'days' be clarified to 'business days'.

The Town also recommends that the Province provide clarifying language regarding the cost of appraisals and which party is responsible, and ensure that municipalities are provided with a full cost recovery mechanism in the spirit of growth paying for growth.

7. Excluded services for community benefits

Although consistent with the ineligible services listed in the current DCA, Milton believes there should be no excluded services from the CBC, except those eligible for DCs. Limiting eligible services does not support the "growth pays for growth" objective and places an increased burden on existing taxpayers to build important infrastructure without the necessary funding from those creating the increased need. **Milton recommends there be no restrictions on eligible services in the community benefit strategy, aside from those services that will remain eligible within the DCA.**

8. Community Planning Permit System (CPPS)

The CPPS is a land approval framework that provides an alternate tool for municipalities to address local planning issues and streamline development. As such, the CPPS is not inherently a tool to recover growth related costs, and exemptions from height and density are not a requirement of a CPPS bylaw. Although utilization of CPPS to date has been minimal, there are examples where DCs continue to be collected within the CPPS framework. **The Town requests that further clarity be provided as to how funding for soft services will occur within CPPS areas, and encourages the Province to ensure that those mechanism are consistent with the principle of growth paying for growth.**

Milton appreciates the opportunity to participate in the consultation process and trusts that there will be a thorough review and evaluation of the feedback provided to the Ministry to ensure the regulatory framework achieves the Province's housing supply objectives. The Town looks forward to providing further input at such time as the proposed CBC prescribed percentages and formula are released and the full draft regulations become available.

Sincerely,



Glen Cowan
Chief Financial Officer & Treasurer

gc/mw

- c Milton Town Council Members
- Municipal Finance Officers Association (MFOA)
- Association of Municipalities on Ontario (AMO)
- Mr. Parm Gill, MPP for Milton