



**Planning &
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April 17, 2020

Attn: John Ballantine
Municipal Finance Policy Branch
Ministry of Municipal Affairs and Housing
777 Bay Street, 13th floor
Toronto, ON
M5G 2E5

Submitted online via Environmental Registry of Ontario and by mail.

Re: ERO No. 019-1406 – Proposed regulatory matters pertaining to Community Benefits Authority under the Planning Act, the Development Charges Act, and the Building Code Act

To whom it may concern:

ERO No. 019-1406 was posted on February 28, 2020 requesting comments on regulatory matters related to the implementation of a Community Benefits Charge be submitted by April 20, 2020.

Thank you for providing the Town with the opportunity to comment on the proposed regulations. These comments have been prepared by staff representatives from the Town's Planning and Development Services, and Finance Departments. A report will be forwarded to a future Council meeting to receive an endorsement of these comments from Council, a copy of Council's resolution will be forwarded to the Ministry at a later date.

The Town previously submitted comments on May 31, 2019 and August 20, 2019 to the Ministry of Municipal Affairs and Housing in response to Bill 108, and the associated Environmental Registry of Ontario postings. The Town is pleased to see that various comments previously submitted to the Province on Bill 108 and subsequent ERO positing related to the regulations have been considered and incorporated into ERO posting 014-1406. The following comments highlight some of the Town's previous comments, and provide new comments based on the proposed changes outlined in the posting.

1. Parkland Dedication

Town comments previously submitted on Bill 108 had identified that greater certainty was required in the regulation and that it should allow municipalities to accept the conveyance of parkland as an 'in kind' contribution. ERO No 019-1406 suggests that this will be permissible in the regulation, and the Town commends the Province for considering and implementing this feedback. However, the *Planning Act* previously permitted municipalities to impose conditions on the approval of plans of subdivision and/or site plans to require the conveyance of land for parkland purposes.

Municipalities identify the location of parks through Official Plans for the betterment of the community. These Official Plans are developed through extensive public consultation, and are publicly available. The ERO posting identifies that “if both a developer and municipality agree, a developer could provide land for parks (rather than a payment).” The Town strives to work with the development community to provide complete communities that include parkland. However, where parkland is needed and has been identified in an Official Plan there may be situations where a developer is unwilling to provide land, instead of cash.

Comment: As park locations have been identified in Official Plans and developed through extensive consultation, and applicants will be credited for ‘in-kind’ contributions towards CBC payments, the determination to accept land for park purposes as an ‘in-kind’ contribution should be to the sole discretion of the municipality, and should continue to be permitted to be imposed as a condition of development under the Community Benefits Charge framework.

2. Services Eligible to be Funded Through Development Charges

The Town’s comments submitted to the Province in May, 2019, did not support the creation of the Community Benefit Charge that combined Section 37 (height and density bonusing), Sections 42 and 51.1 (parkland dedication) of the *Planning Act*, and the collection of development charges related to “soft services” into a single payment, as the actual cost of growth would be transferred onto the existing property tax base. The Town identified through comments in August 2019 that approximately 25% of the Town’s portion of forecasted development charges apply to support “soft services” such as recreational facilities, park construction, libraries, associated debt repayment, and studies.

The changes proposed in ERO No 019-1406 would reintroduce permissions to collect development charges for public libraries, including circulation materials; long term care facilities; parks development, including playgrounds, splash pads, equipment and other park amenities; public health; and recreation, such as community recreation centres and arenas.

Comment: The Town commends the Province for listening to feedback provided by municipalities, recognizing the importance of growth paying for growth. The Town fully supports reintroducing permissions to collect “soft service” development charge categories under the *Development Charges Act*.

The *Development Charge Act* previously required a 10% reduction of development charges for “soft services”. The proposed changes would also allow municipalities to fully recover the capital costs related to the provision of these services due to new growth.

Comment: The Town supports the proposed changes to allow municipalities to fully recover the capital costs of these service categories as it ensures that growth pays for growth.

3. Percentage of Land Value for Determining a Maximum CBC

The Town had previously identified that without the continued conveyance of parkland and/or collection of money in lieu at the alternative rate (1 hectare per 300 units where land is conveyed or 1 hectare per 500 units where cash in lieu is provided), intensification areas would experience deficiencies in parkland. As residential units become smaller and populations increase in intensification areas there will be a greater need for parkland. By not including the alternate parkland calculation, these areas will not transition into complete communities that provide a desirable and healthy quality of life. As a result, the Town had requested that

alternative calculations for parkland dedication be reinstated in the *Planning Act*, or that the CBC formula (percentage) recognize revenue previously collected using the alternative parkland calculation for medium/high density developments.

When examining recent high density developments in the Town, the cash-in-lieu payment calculated using the alternative rate (1 ha per 500 units) exceed 10% of the land value. For example, a recent development in Ajax with a density of 200 units per net hectare (36 units) would result in the collection of cash-in-lieu of parkland equal to 14% of the land value when applying the alternative parkland rate. Therefore, allowing a maximum of 10% would not only result in a 4% decrease in the collection of parkland dedication in this example, it would also not allow the collection of money for other community services. Other developments in Ajax with higher densities vary greatly when calculating the parkland contribution as a percentage of the land value, but follow a similar trend and exceed 10% of the land value.

Comment: That the Province reconsider the maximum percentage that can be collected for a Community Benefit Charge, and that the alternative parkland calculation rates (1 ha per 300/500 units) previously permitted in the *Planning Act* be factored into determining an increased percentage.

The Town commented in August 2019 that land values vary greatly regionally and fluctuate with market forces, while costs associated with the construction of community facilities or parks are generally more closely aligned regionally. This can make it difficult to apply a single percentage across the entire Province. Therefore, the Province should commit to a future review of the percentage and CBC framework to allow an opportunity to address any issues.

Comment: That the Province commit to a review of the CBC framework and percentage in two (2) years to determine the actual revenue losses experienced by municipalities and whether the parentage rates should be increased.

4. Timeline to Transition to the New Community Benefits Charge Regime

The ERO posting proposes that “the specified date for municipalities to transition to the community benefits charges regime would be one year after the date the proposed community benefits charge regulation comes into effect.”

The Town previously commented that the process to review the Town’s Development Charge (DC) By-law took 1 year to complete with the help of a consultant; excluding time associated with acquiring the services of a consultant through a municipal procurement process (~3 months). Further, this was an update to an existing by-law and was not the formation of a new by-law (which would likely take 2 or more years). Most municipalities rely on the services of consultants specialized in the application of planning legislation to complete background studies; it will be difficult for the limited number of consultants to prepare such studies for all Ontario municipalities. Therefore, it is requested that the timeline to transition to a new CBC be extended to two (2) years from the date the CBC regulation comes into effect.

Comment: That the specified date for municipalities to transition to the CBC framework be extended to two (2) years after the date the regulation comes into effect.

Comment: Clarification is needed in the regulation that would allow municipalities to implement a CBC Strategy and By-law after the transition deadline, should a municipality decide to implement at a later date.

5. Building Code Applicable Law

The proposed changes include amending the Building Code to add the CBC authority to the list of items under the definition of applicable law, ensuring the payment of CBC occurs prior to issuance of the building permit.

Comment: The Town supports adding the authority to collect CBC under the applicable law section of the Building Code and requiring the payment prior to the issuance of the building permit for all permit applications.

6. Other Considerations in the Development of the Community Benefit Charge Regulation

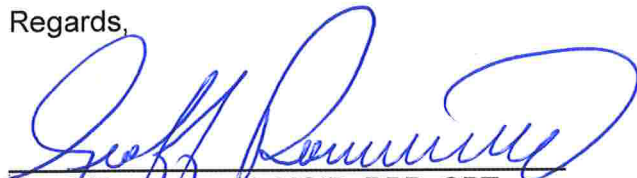
The Town previously submitted comments in response to ERO No. 019-0183 on proposed new regulations pertaining to the Community Benefits Charge, and would like to ensure that the following outstanding comments are considered in the development of the final regulation:

Comment: That the CBC regulation allow the Council of a municipality the ability to apply an exemption from payment of all or part of a CBC through a municipal by-law, in order to fulfill specified objectives. For example, municipalities may currently establish Community Improvement Plans to encourage certain types of development by providing various incentives within a strategic geographic area, such as reduced or waived development charges. This ability should be maintained through the CBC By-law.

Comment: That the regulation allow municipalities to apply different percentages in various locations in the municipality, including the ability to apply area specific percentages in high growth areas (e.g. intensification areas that have little or no parkland).

Thank you again for providing the Town with the opportunity to comment and for your consideration of these comments. Should you have any questions please contact Sean McCullough, Senior Planner at Sean.mccullough@ajax.ca or (905) 619-2529 ext. 3234 and he will endeavour to coordinate a response.

Regards,



Geoff Romanowski, MCIP, RPP, CPT
Acting Director of Planning and Development Services
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Town of Ajax

Copies:

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