

Corporate Services
The City of Cambridge
cfo@cambridge.ca

April 20, 2020

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

Re: ERO Number 019-1406 – Proposed regulatory matters pertaining to community benefits authority under the Planning Act, the Development Charges Act, and the Building Code Act

The City of Cambridge staff is providing this submission in response to the consultation document number 019-1406 posted for comment by the Ministry of Municipal Affairs and Housing. We are generally supportive of the comments provided by the Municipal Finance Officers' Association (MFOA), our consultants Watson & Associates, and our upper-tier municipality, the Region of Waterloo.

In particular, the City's main areas of feedback associated with the proposed regulations are as follows:

- **Eligible D.C. services:** The City wishes to acknowledge and commend the Province for heeding the feedback from the earlier solicitations regarding the inclusion of Parks Development, Recreation, and Public Libraries as D.C. eligible services and removing the previous mandatory 10% deduction on these services.
- **Two frameworks:** The creation of a new community benefits charge framework in addition to the development charges framework would lead to additional administrative costs for municipalities as well as the potential for increased confusion and less predictability for developers who would now have to monitor

and estimate their costs under two very different frameworks. This is counter to the Province's objective of more predictability for developers. The City recommends incorporating the eligible services from the community benefits charge into the D.C. framework.

- **Timing of transition:** With the number of municipalities in the province requiring services from a limited number of consultants, as well as the desire to align the community benefits charge study with the development charges background study for effective growth planning, the proposed one-year transition period is not sufficient. The City is recommending a transition period of the later of 2 years or expiry of the development charges by-law. This also provides time for municipalities to prepare their administrative processes and address staffing needs required for a completely new framework.
- **Two tier municipalities:** There remain a number of questions associated with how the community benefits charge framework would be administered and the funding collected, particularly if one tier opts in and the other does not.
- **Growth studies:** Studies remain an eligible cost under the definition of capital in the D.C. Act, however with a limiting listing of eligible services that excludes studies it remains unclear if general growth studies (i.e. Official Plan) would continue to be D.C. eligible. If these types of studies must be attributed to each individual service as well as the community benefits charge, this may become confusing and administratively burdensome. If they are now excluded from any D.C. funding, this would shift further costs to the taxpayers should a municipality not opt into a community benefits charge (i.e. in order to preserve existing parkland dedication through section 42 of the Planning Act) or if the community benefits charge exceeded the proposed cap.
- **Maximum rates:** There is concern that the proposed maximum rates are not high enough for revenue neutrality for municipalities, particularly in brownfield and higher density developments. Additionally, should different rates be applied for residential and non-residential, the residential rate would most likely exceed the maximum allowable percentage. This is counter to the Province's objective of revenue neutrality for municipalities. Further, questions remain outstanding regarding how the community benefits charge will be applied in cases of redevelopment.
- **Parkland acquisition vs dedication:** Under the current Planning Act, the majority of the City's parkland is acquired through dedication. There is concern that with the change to the community benefits charge regime, this will lead to increased

costs for developers generally. Parkland acquisition in new developments will need to be negotiated on a case by case basis with each developer; if developers are not willing to provide sufficient parkland to meet the City's master plan and growth needs, parkland may need expropriated facing even higher costs.

Thank you for the opportunity to comment.

Regards,



Sheryl Ayres
Chief Financial Officer

Attachments:

Appendix A – Submission by MFOA

Appendix B – Submission by Watson & Associates

Appendix C – Submission by the Region of Waterloo



MUNICIPAL FINANCE
OFFICERS' ASSOCIATION
OF ONTARIO



ERO # 019-1406 Proposed regulatory matters pertaining to community benefits authority under the Planning Act, the Development Charges Act, and the Building Code Act

Submission to the Ministry of Municipal Affairs and Housing
March 30, 2020

Contents

1. Executive summary.....	3
2. Summary of recommendations	3
3. Introduction	5
4. About MFOA.....	6
5. Guiding principles	6
6. Proposed regulatory matters pertaining to community benefits authority under the Planning Act, the Development Charges Act, and the Building Code Act.....	7
a. Required content of a community benefits strategy	7
b. Services eligible to be funded through development charges	8
c. Percentage of land value for determining a maximum community benefits charge	12
d. Timeline to transition to the new community benefits charge regime	15
e. Community benefits charge by-law notice	15
f. Minimum interest rate for community benefits charge refunds where a by-law has been successfully appealed.....	16
g. Building code applicable law.....	16

1. Executive summary

MFOA agrees with the Housing Supply Action Plan's declaration that "Ontario needs more housing, and we need it now."¹ Housing affordability is a serious underlying challenge in the Province and our members commend the government for trying to address one of the most pressing as well as complicated issues facing Ontarians today.

Despite this urgency, the Association's message since the introduction of the *More Homes, More Choice Act, 2019* (MHMCA) has been one of caution. The potential for unintended consequences, such as creating have and have-not communities and slowing down development, are too high to rush through changes to the legislative and regulatory system. It does appear that the Province has been listening.

Even with the proposed amendments in the latest ERO posting, however, there is still work to do to mitigate the potential negative consequences of the changes introduced by the MHMCA. Much of this work is the result of the diversity of the municipal sector. Issues are also created by the limitations of the existing cost recovery regimes for growth-related capital costs. The Province currently has an opportunity to make meaningful changes, but municipalities need time to test the proposed community benefits charge caps to ensure they are workable, fair, and allow for the recovery of growth-related infrastructure costs. Municipalities also need support to understand proposed changes to legislation and to adapt existing systems strategically.

2. Summary of recommendations

The following summarizes MFOA's recommendations for the DCA, *Planning Act* (PA), and supporting regulations. These recommendations are guided by three main principles, that: (1) growth should pay for growth on a place-by-place basis; (2) complete, vibrant communities are good for everyone, and (3) provincial legislation related to municipal governance should be enabling and permissive.

Recommendations for legislation:

- Repeal MHMCA amendments to ss 2(4) of the DCA, which have yet to come into force, such that all services are eligible for inclusion in the development charge calculation so long as they are not expressly excluded by regulation.
- If MHMCA amendments to ss 2(4) of the DCA, which have yet to come into force, are not repealed, MFOA supports identifying the following services in regulation under ss 2(4) of the DCA: public libraries, including library materials for circulation, reference or information purposes; long-term care; parks development, such as playgrounds, splash pads, equipment and other park amenities (but not the

¹ Province of Ontario (2019). [More Homes, More Choice: Ontario's Housing Supply Action Plan](#)

acquisition of land for parks); public health; and recreation, such as community recreation centres and arenas.

- MFOA believes that there should be no discounted services. MFOA supports the elimination of the 10% discount on all services in the DCA.
- Should MHMCA amendments to ss 2(4) of the DCA, which have yet to come into force, not be repealed, MFOA recommends expanding the list of eligible services to include: child care services, social/subsidized housing, airports, and municipal masterplans.
- MFOA recommends allowing development charges and the community benefits authority to be used together, such that unrecoverable DC growth-related costs (e.g. service level) can be recovered under the community benefits authority.
- Add a subsection under PA s 37 to provide for regular updating of the prescribed maximum amount of community benefits charge: “The Ministry of Municipal Affairs and Housing shall initiate a review of the prescribed maximum amount of community benefits charge before the end of 2024 and thereafter within five years of the end of the previous review.”
- Provide the Minister of Municipal Affairs and Housing with the authority to allow municipalities to exceed the prescribed maximum amount of community benefits charge in select circumstances.
- Add a subsection under PA s 37 to include conveyance such that: “As a condition of development or redevelopment of land, the council of a local municipality may, by by-law applicable to the whole municipality or to any defined area or areas thereof, require that land be conveyed to the municipality for park or other public recreational purposes.”
- Add a subsection authorizing local services in the Planning Act based on subsection 59 (2) of the DCA.

Recommendation for regulation:

- The specified transition date be either the later of 2 years after the date the proposed community benefits charge regulation comes into effect or the date the municipal DC by-law expires.

3. Introduction

“Homelessness and the lack of affordable housing are Ontario-wide problems, and not confined to Toronto.”²

MFOA agrees with the Housing Supply Action Plan’s declaration that “Ontario needs more housing, and we need it now.”³ Housing affordability is a serious underlying challenge in the Province and our members commend the government for trying to address one of the most pressing as well as complicated issues facing Ontarians today.

Despite this urgency, the Association’s message since the introduction of the *More Homes, More Choice Act, 2019* (MHMCA) has been one of caution. The potential for unintended consequences, such as creating have and have-not communities and slowing down development, are too high to rush through changes to the legislative and regulatory system. It does appear that the Province has been listening. MFOA members were heartened by the proposed changes to the Community Benefits Charge (CBC) regime introduced in ERO # 019-1406, as well as measures in the Fall Economic Statement that removed commercial and industrial development from being eligible for automatic phased DC payments and allowed municipalities to maintain revenues during the transition to the new regime. Other measures, such as making CBC by-laws appealable and the surprise announcement of changes to the DCA, were not as well received.

Even with the proposed amendments in the latest ERO posting, however, there is still work to do to mitigate the potential negative consequences of the changes introduced by the MHMCA. Much of this work is the result of the diversity of the municipal sector. Recent reports and commentary have showcased how the housing affordability crisis is playing out in different ways across the Province.^{4, 5} Municipalities are unique, a concept clearly noted in the newly released Provincial Policy Statement, 2020 (p. 5). They need flexible legislation that allows them to tailor responses to address local circumstances if they are to effectively provide municipal services (protection, transportation, environmental, health, social and family, social housing, recreation and culture, planning and development, among others), as well as support the province’s objectives.

Issues are also created by the limitations of the existing cost recovery regimes for growth-related capital costs. Under the previous DC regime, growth was not fully paying for growth⁶ and this fact must be appropriately considered to ensure communities we build

² The problem is likely worse today than it was when Hulchanski reported on the issue in [Where’s Home? A Picture of Housing Needs in Ontario](#) in 1999.

³ Province of Ontario. (2019). [More Homes, More Choice: Ontario’s Housing Supply Action Plan](#)

⁴ Refer to Moffatt, Mike. (2020). [Ontarians on the Move #0 — What Parts of Ontario Are Growing... and Why?](#) And the TVO.org [series](#) looking at how Ontario’s affordable-housing crisis is playing out beyond the GTA.

⁵ RE/MAX. (2019). [2020 CANADIAN HOUSING MARKET OUTLOOK](#)

⁶ Watson & Associates’ 2010 study, “Long-term Fiscal Impact Assessment of Growth: 2011-2021,” for the Town of Milton. According to the study, after taking into consideration the various DC restrictions introduced in 1997, DCs only paid for approximately 80% of the cost of growth-related capital in Milton.

today are able to thrive in the future. Growth must pay for 100% of growth on a place-by-place basis to support equitable development across Ontario.

The Province currently has an opportunity to make meaningful changes, but municipalities need time and support to understand the proposed changes and adapt existing systems strategically. MFOA thanks the Province for the opportunity to provide comments on the new regulation pertaining to the community benefits authority and accompanying regulatory amendments. We also commend the government on its commitment to meaningfully engage with stakeholders throughout the consultation process.

4. About MFOA

The Municipal Finance Officers' Association (MFOA) was established in 1989 to represent the interests of municipal finance staff across Ontario. Our membership includes individuals from municipalities who are key advisors to councils on financial affairs and who are responsible for handling the financial activities of municipalities. The municipalities that are members of MFOA account for 99.6% of the population of the province.

MFOA has a keen interest in development charges (DCs) and has a history of advocating on this issue on behalf of the municipal sector. Most recently, MFOA submitted [comments](#) on proposed regulatory changes pertaining to the community benefits authority under the Planning Act and to O. Reg. 82/98 under the *Development Charges Act*, presented at the Standing Committee on Justice Policy about Bill 108, *More Homes, More Choice Act, 2019*, and submitted a technical [response](#) to the Province's Housing Supply Action Plan, as well as a joint response with the Ontario Regional and Single Tier Treasurers. Each submission highlighted MFOA's long-standing position that growth should pay for growth. MFOA's submissions received strong endorsement from our members and from other municipal associations.

5. Guiding principles

The following principles have guided our comments in all of our submissions, including this one:

- a) Growth should pay for growth on a place-by-place basis.

Provincial legislation should consistently allow **all municipalities** to recover the **full cost of infrastructure related to growth** (i.e. no excluded services, no discounts, and forward-looking service levels rather than 10-year average historic levels). Amendments to the DCA since 1989 have reduced municipalities' overall ability to recover growth related costs. This means that existing taxpayers must pay the cost of infrastructure for new communities. The mechanisms to permit cost recovery should be efficient, as any accompanying administrative burden can result in slower provision of requisite infrastructure and services, thereby slowing housing development.

- b) Complete, vibrant communities are good for everyone.

Complete communities support healthy and active living for residents. They require employment opportunities and a significant array of municipal infrastructure to service residents and businesses. The services needed to support complete communities extend beyond water, wastewater and roads. No community is complete without parks, recreation facilities, rinks and other services that enable residents and businesses to thrive. Revenue is needed to finance growth related costs for a full range of services. If the CBC raises less money than the existing DC regime it will be more difficult to build complete communities in a financially sustainable way, while remaining affordable for residents and business. Further, if existing taxpayers and ratepayers have to cover funds for infrastructure not recovered through DCs and CBCs, this could result in higher property taxes and utility rates for municipalities with new development. It could also create a disincentive for residents to support new housing.

- c) Provincial legislation related to municipal governance should be enabling and permissive.

Provincial legislation can be overly prescriptive. Restrictive legislation removes decision making power from local authorities and chips away at local officials' ability to respond to local concerns.

6. Proposed regulatory matters pertaining to community benefits authority under the Planning Act, the Development Charges Act, and the Building Code Act

The following section presents MFOA's recommendations for ERO # 019-1406. Our recommendations aim to ensure that municipalities have the right tools to strategically provide infrastructure to support growth on a place-by-place basis. These tools support development and are necessary for the Province's objective of increasing the housing supply.

- a. Required content of a community benefits strategy

The proposed CBC content outlined in the ERO posting is similar to the process set out in the DCA with a few notable exceptions.

These exceptions, such as the lack of prescription with respect to service levels and definitions of capital costs, provide municipalities with additional flexibility in the development of a CBC strategy. MFOA members appreciate this greater degree of flexibility as forward-looking service levels allow municipalities to recover costs reflective of actual needs rather than historical experience. Despite this opportunity, many municipalities remain concerned that the additional flexibility provided to municipalities will be mostly offset by the imposition of a cap on the CBC payable.

The proposed CBC strategy also takes elements from requirements under s.42 of the *Planning Act* for parkland acquisition. Previously, not all municipalities availed themselves of s.42 of the *Planning Act* and as such, may not have prepared parks plans or included parkland acquisition in their capital forecasts for planning purposes. On the other hand, not all municipalities that availed themselves of s.42 may have collected DCs. The result is that all municipalities moving to the new CBC regime will face additional work and the requirement to do a parks plan could delay the implementation of the CBC regime.

This is problematic. In addition to the general issues associated with red tape, MFOA is concerned that the additional administrative burden and quick transition timelines will imperil the 'soft' services remaining in the PA. Resource-constrained municipalities may be forced to forgo the CBC given the sheer volume of administrative work required to implement both a CBC strategy and the changes made to the DCA. And all municipalities will need more time to complete new background studies to support both new DC and CBC rates, develop new administration and collection systems, as well as implement processes to deal with appeals of land values. This is especially true now given the added financial pressures and greater uncertainty due to COVID-19.

MFOA continues to support a return to the previous frameworks for the recovery of growth-related capital costs, parkland acquisition, and growth and density bonusing under the DCA and PA, which existed prior to MHMCA receiving Royal Assent.

Should this return not occur, MFOA supports flexibility in the development of a CBC strategy.

b. *Services eligible to be funded through development charges*

Increasing the number of services eligible to be funded through development charges improves predictability for both municipalities and developers. It also facilitates the strategic emplacement of the range of growth-related infrastructure needed to create complete communities by improving the potential for municipalities to recover their capital costs.

The existing DC regime is one that meticulously identifies the costs that are driven by growth (people, employees) and recovers them (albeit at a reduced rate) over the relevant growth period from the various types of property. There is a link between costs and the anticipated revenues. Furthermore, the DC is updated every 5 years so the link between costs and revenues is reasonably current. Land value is not related to the cost of providing services and by imposing a cap based on land value this means that the CBC may not change over time to reflect project costs.

Given these concerns, MFOA members welcome the proposed amendment to increase services eligible to be funded through DCs and commend the government for listening to municipal concerns and to be willing to adjust course as needed. Our members were also pleased that the 10% discount on 'soft' services, required prior to the MHMCA, has been

removed. Municipalities will be in a better position as compared to June 7th, 2019, should the proposed amendments go through. We caution, however, against characterizing the removal of the discount as making these costs ‘fully’ recoverable. Negative pressure continues to exist within the DC framework such as prescribing the use of historic service levels for most eligible services (transit services being the exception) when calculating DC rates.

MFOA supports the return of the proposed services to the DCA for the following reasons:

- Public libraries: Public libraries educate, connect, and empower residents, as well as provide a boost to the local economy.⁷ Returning public libraries to the DCA allows new residents to also benefit from these community-building services.
- Long term care: It is estimated that by 2041, one-quarter of Canada’s population will be over the age of 65.⁸ There are currently 49 municipalities in Ontario with seniors’ populations of 30% or more, and with this forecasted demographic shifts, these figures will likely increase.⁹ For many municipalities across Ontario, growth will be driven by this segment of the population. Municipalities will be better equipped to provide the services needed by this segment of the population by making long term care an eligible service under the DCA. MFOA members were concerned when ERO #019-0183 proposed exempting long-term care homes from the CBC regime. MFOA commends the government for recognizing the current and future pressure presented by long term care services.
- Parks development, such as playgrounds, splash pads, equipment and other park amenities (but not the acquisition of land for parks): Parks provide environmental, social, economic, and health benefits.¹⁰ Their attributes echo the 2020 Provincial Policy Statement’s vision of communities (p. 5): “Strong, liveable and healthy communities promote and enhance human health and social well-being, are economically and environmentally sound, and are resilient to climate change.” Including parks development as an eligible service is aligned with provincial objectives.
- Public health: As Benjamin Franklin stated and studies¹¹ have found, “an ounce of prevention is worth a pound of cure.” In this case, the ‘pound of cure’ relates to the overall cost savings resulting from local investments in public health. Including public health as an eligible service enables municipalities to make strategic investments with positive spillover for the province’s long-term health spending

⁷ “Public libraries deliver a big return on investment – more than \$5 in direct, local economic benefits for every \$1 invested. (...) But many public library budgets are stretched to the limit, even as more people depend on local public libraries than ever before.” [Federation of Ontario Public Libraries](#), (2019).

⁸ D. Peters, TVO, How Ontario Communities are making themselves more senior friendly January 2019

⁹ Statistics Canada, 2016 Census

¹⁰ Park People. (2019). [The Canadian City Parks Report](#)

¹¹ Masters, Rebecca, Anwar, Elspeth et al. (2016). [“Return on investment of public health interventions: a systematic review”](#)

projections.¹² Further, the current COVID-19 situation demonstrates the importance of public health infrastructure to community health.

- Recreation, such as community recreation centres and arenas: Similar to public library services and parks development, recreation provides a myriad of community building, health, and economic benefits to residents. In addition, including both public library and recreation as eligible services better enables municipalities to pursue provincial initiatives, such as the development of community hubs. Questions remain, however, as to whether the definition of this service will allow for the recovery of costs related to walkways, trail ways, cycle paths, and other recreation services that may or may not be within parks.

Given the differences in service levels across the province, MFOA encourages the provision of enough flexibility when defining eligible services to allow municipalities to tailor their DC background studies to reflect local circumstances.

Further, while the return of additional services improves municipalities' ability to recover the capital costs of growth-related infrastructure for a wider range of services, MFOA maintains that all services should be eligible. We continue to promote a return to the previous DC regime where the DCA listed exempt services, rather than prescribed a restricted list of eligible services. Should this return not be under consideration, we encourage the province to consider further expanding the list of eligible services. Widening the list would increase the probability that municipalities will have the revenues to emplace needed growth-related capital works. A few areas to consider include but are not limited to:

- Childcare services: The new refundable Ontario Childcare Access and Relief from Expenses (CARE) Personal Income Tax credit recognizes the challenges faced by many families in Ontario. Including childcare services in the DCA complements this initiative by returning one municipal revenue tool previously used to fund the growth-related capital costs of these services. This could be especially important in municipalities experiencing an influx of young families due to high costs in the GTA.¹³
- Social/subsidized housing: The 2020 Provincial Policy Statement (p. 16) requires municipalities to “provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents.” There are numerous partners who, together, play an essential role in building healthy and vibrant communities in Ontario. The development industry is one such partner. However, according to Mitchell Cohen, president of The Daniels Corp., “Without the government engagement, the private sector is not going to create affordable housing.”¹⁴ Given its objectives, the

¹² Jones, Allison. (2019). [Ontario doctors' contract to increase health spending by \\$1.5B: watchdog](#)

¹³ Moffatt, Mike. (2020). [Ontarians on the Move #0 — What Parts of Ontario Are Growing... and Why?](#)

¹⁴ <https://business.financialpost.com/real-estate/property-post/how-one-developer-is-working-to-get-affordable-housing-built-in-toronto>

province should consider making social/subsidized housing an eligible service under the DCA.

- **Airports:** Part 1.6.9 of the Provincial Policy Statement speaks to the importance of protecting the economic role of airports and other special transportation facilities. As such, the province should consider aligning the funding and planning supports available to these facilities.
- **Municipal masterplans:** Municipalities prepare overarching plans, both direct and indirect, to strategically guide their future. These plans, for example Official Plans, cover a wide range of services not all of which will be eligible for recovery through the DCA. Making the preparation of these documents eligible for recovery promotes integrated long-term planning.

CBCs and DCs together must pay for 100% of growth-related costs. MFOA supports allowing DCs and CBCs to be used together, such that unrecoverable DC growth-related costs (e.g. service levels)¹⁵ can be recovered using CBCs. Expanding the list of DC eligible services and removing the 10% discount on select 'soft' services is an improvement over the direction the DC regime appeared to be headed in the summer of 2019. It is not enough, however, to enable municipalities to fully recover the growth-related capital costs of the long list of services municipalities provide to support vibrant, complete communities. As previously commented, MFOA supports the 1977 Commission on the Reform of Property Taxation in Ontario conclusion that there are no distinctions between services to property and services to people; there are only services to people¹⁶. As such, MFOA believes that the capital costs of all services should be eligible to be recovered through the DCA.

Recommendation for legislation:

- **Repeal MHMCA amendments to ss 2(4) of the DCA, which have yet to come into force, such that all services are eligible for inclusion in the development charge calculation so long as they are not expressly excluded by regulation.**
- **If MHMCA amendments to ss 2(4) of the DCA, which have yet to come into force, are not repealed, MFOA supports identifying the following services in regulation under ss 2(4) of the DCA: public libraries, including library materials for circulation, reference or information purposes; long-term care; parks development, such as playgrounds, splash pads, equipment and other park amenities (but not the acquisition of land for parks); public health; and recreation, such as community recreation centres and arenas.**
- **MFOA believes that there should be no discounted services. MFOA supports the elimination of the 10% discount on all services in the DCA.**
- **Should MHMCA amendments to ss 2(4) of the DCA, which have yet to come into force, not be repealed, MFOA recommends expanding the list of eligible**

¹⁵ This does not include non-growth related costs such as benefit to existing development.

¹⁶ Ontario, "Report of The Commission on the Reform of Property Taxation in Ontario", (Toronto: Government of Ontario, 1977).

services to include: child care services, social/subsidized housing, airports, and municipal masterplans.

- **MFOA recommends allowing development charges and the community benefits authority to be used together, such that unrecoverable DC growth-related costs (e.g. service level) can be recovered under the community benefits authority.**

c. Percentage of land value for determining a maximum community benefits charge

The MHMCA had an outsized impact on municipal planning and finance functions. The Act reconfigured how municipalities recover the growth-related capital costs of certain ‘soft services’, acquire parkland, and collect height and density bonusing. Three sections of legislation with different purposes were lumped together under a new cost recovery regime. While MFOA members appreciate that current proposed amendments return select ‘soft’ services back to the DCA, they remain concerned that much still remains at stake for municipalities in the post MHMCA world.

The issues with the community benefits charge regime are several and continue to warrant consideration. First, it is unlikely that the province’s objective of maintaining municipal revenues will be met given:

- the loss of the alternative parkland rate,
- the loss of height and density bonusing, and
- the imposition of a prescribed cap on the CBC.

While MFOA members appreciate the flexibility provided by the proposed CBC strategy, they are concerned that this flexibility will be substantially offset by the CBC regime’s restrictions that will impact their ability to raise revenue and cover growth-related capital costs.

Second, MFOA members continue to be concerned that the CBC charge is tied to land value rather than the actual costs of growth-related capital works. “While it makes sense to make land values pay for some amenities — most notably, the land costs for parks — other community services aren’t as affected by land values.”¹⁷ Revenue may be capped, but there is no cap for the growth-related costs of ‘soft’ services. MFOA continues to argue that the prescribed cap must be anchored in the costs to service growth. Without this link, growth will not pay for growth and councils will be faced with decisions that could lead to neighbourhoods with different levels of service. A calculated maximum based on land values without a similar drop in infrastructure costs could result in a situation whereby a sudden drop in land values leaves a municipality without the ability to collect adequate funds to provide growth-related community benefits.

In addition, land values can differ widely between neighbouring municipalities, while the municipalities’ construction costs remain relatively similar. This could result in inequities between neighbours. For example, a municipality with high land values may be able to

¹⁷ McGrath, John Michael. (2020). [Tories discover it’s hard to keep both cities and developers happy.](#)

build more recreation centres than its neighbour. Complete, vibrant communities are good for everyone. They should not be restricted based on a one-size-fits all cap that is not reflective of local circumstances. Anchoring the cap in costs recognizes the unique circumstances of each municipality and reflects the changing cost structures, demographic patterns, economic conditions, and other factors outside of municipal control.

Third, the ERO posting provides ‘one-size fits all’ caps based on tier. As noted in the 2020 Provincial Policy Statement (p. 5):

Ontario is a vast province with diverse urban, rural and northern communities which may face different challenges related to diversity in population, economic activity, pace of growth and physical and natural conditions. Some areas face challenges related to maintaining population and diversifying their economy, while other areas face challenges related to accommodating and managing the development and population growth which is occurring, while protecting important resources and the quality of the natural environment.

In addition to the diversity noted above, regions and counties divide responsibilities in different ways. It is difficult to believe that the proposed one-size fits all caps capture the range of municipal experience.

The prescribed caps must be workable, fair, and allow for the recovery of growth-related infrastructure costs on a place-by-place basis. Evidence created by comprehensive and rigorous analysis is needed to determine whether the split between upper and lower tiers makes sense. It is also needed to determine whether 15% captures the range of services delivered by single tiers across the Province. The repercussions of getting the caps wrong are great. As such, municipalities need longer than 52 days to test whether the proposed caps work given local circumstances, especially when many of those days are in the midst of a pandemic. **MFOA recommends a more fulsome consultation on the prescribed maximum CBC payable** given the complexity of the task and the timing of the comments period.

Fourth, questions remain surrounding the implementation of the new CBC regime and potential consequences of the regime as currently laid out. Any one of these issues could have major revenue impacts. For example,

- What happens in two-tier structures when lower tier municipalities forego the CBC regime? How will this impact the collection of the upper tier’s CBC?
- Municipalities will need to calculate the risk of not receiving land vs. the impact of not recovering capital costs for certain soft services. Currently the CBC regime (PA s 37) does not require developers to provide land for parks, unlike PA s 42. Will municipalities need to expropriate land more frequently (a very expensive endeavour) if they choose to pass a CBC by-law?¹⁸

¹⁸ Municipalities need to be the sole determinant of conveyance of land or cash paid. Without this authority, municipalities may struggle to provide planned service levels to their residents. For example, a municipality

- What happens to existing debt related to ‘soft’ services, negative DC reserve fund balances, and DC credits for ‘soft’ services?
- The PA does not currently provide municipalities with the authority to establish local services policies. Will this misalignment between the PA and the DCA create roadblocks in the integration of parkland acquisition (under the PA) and parkland development (under the DCA)?

As previously stated, it is MFOA’s belief that the CBC must be workable, fair, and allow for the recovery of growth-related infrastructure costs. This recovery must hold on a municipality by municipality basis, not just at the provincial level where winners and losers can be masked. Ultimately, municipalities need a prescribed cap that:

- Permits the capture of 100% of growth-related capital costs, land acquisition needs, as well as height and density bonusing requirements;
- Is predictable;
- Is reflective of local circumstances; and
- Remains relevant.

MFOA encourages the Province to include a mechanism for regular review of prescribed caps, as well as flexibility for the Minister to authorize municipalities to exceed prescribed caps where evidence demonstrates material need. A transparent criteria-based process would need to be created to ensure predictability for all parties. Together these measures would help municipalities continue to support the development of complete and vibrant communities.

Recommendations for legislation:

- **Add a subsection under PA s 37 to provide for regular updating of the prescribed maximum amount of community benefits charge: “The Ministry of Municipal Affairs and Housing shall initiate a review of the prescribed maximum amount of community benefits charge before the end of 2024 and thereafter within five years of the end of the previous review.”**
- **Provide the Minister of Municipal Affairs and Housing with the authority to allow municipalities to exceed the prescribed maximum amount of community benefits charge in select circumstances.**
- **Add a subsection under PA s 37 to include conveyance such that: “As a condition of development or redevelopment of land, the council of a local municipality may, by by-law applicable to the whole municipality or to any defined area or areas thereof, require that land be conveyed to the municipality for park or other public recreational purposes.”**
- **Add a subsection authorizing local services in the *Planning Act* based on subsection 59 (2) of the *Development Charges Act, 1997*.**

trying to piece together a large park to serve new residents in a new community built by four developers could be in trouble. What happens if there are three developers that provide adjacent lots to build the park and one that opts for cash? Would the municipality be forced to expropriate the fourth corner to complete the park or would they need to provide a lower service level than originally planned?

d. Timeline to transition to the new community benefits charge regime

MFOA members appreciate that the Province has listened to municipalities and has proposed to adjust course on certain aspects of the CBC regime. This course correction, while viewed as positive, still presents logistical issues for municipalities.¹⁹

Since the introduction of the MHMCA, municipalities have worked diligently to adjust policies and procedures to meet new legislative requirements under the DCA and PA. Many of these new requirements (proclaimed or awaiting proclamation) require new administrative processes and systems.

MFOA's work in the area of long-term fiscal sustainability has taught us that changes to the status quo only have a chance of working as intended when municipalities are given the right tools and provided with enough lead time to effectively adapt existing systems. The new CBC regime and changes to the existing DC regime require municipalities to modify how they do business. To enable them to do this strategically, MFOA recommends that the Ministry extend the timeline to transition, create and communicate practice guides, interpretation bulletins, and webinars to educate stakeholders on the new regimes, and provide assistance in adapting municipal policies and procedures.

The current proposed transition period is one year after the date the proposed CBC regulation comes into effect. We believe that this timeline is insufficient when accounting for the time required to complete a CBC strategy with the appropriate level of stakeholder engagement, the preparation of necessary studies, and the need to develop a new administrative process for CBC collection. In addition, in an "all hands on deck" world devoted to COVID-19 and the disruption to working relationships and office attendance, it will be even more difficult to transition to a new regime.

Municipal governments are essential partners in achieving the Province's policy objectives. By providing municipalities with the time and tools needed to implement changes, the sector will be better positioned to adapt their systems while continuing to deliver the services that enable Ontarians to live their best life.

Recommendation for regulation:

- **The specified transition date be either the later of 2 years after the date the proposed community benefits charge regulation comes into effect or the date the municipal DC by-law expires.**

e. Community benefits charge by-law notice

The *Plan to Build Ontario Together Act, 2019* amended the PA to allow the community benefits charge by-law to be appealable to the Local Planning Appeal Tribunal (LPAT). While MFOA disagrees with this amendment due to the resulting revenue risks for

¹⁹ "To design is human, to implement, divine"

municipalities among other challenges²⁰, we understand that processes must be set out to implement the change.

The notice provisions proposed in the ERO posting mirror those set out in the DCA. As such, municipalities with DCs will be able to leverage existing processes while transitioning to the new CBC regime. MFOA sees no significant issue with the community benefits charge by-law notice provisions as written.

- f. Minimum interest rate for community benefits charge refunds where a by-law has been successfully appealed

Similar to the comments above, MFOA understands that by making the community benefits charge by-laws appealable, processes need to be established to allow for refunds of by-laws which have been successfully appealed. MFOA sees no significant issues with the proposed minimum interest rate for community benefits charge refunds where a by-law has been successfully appealed.

- g. Building code applicable law

MFOA supports the proposal to amend the Building Code to add the community benefits charge authority to the list of applicable law. This amendment is a housekeeping item that enables the mechanism for ensuring the payment of community benefits charges prior to the issuance of a building permit. MFOA supports the change as it ensures payments to municipalities are made promptly. Further, MFOA encourages the Province to consider additional changes that could facilitate collections of CBCs in two-tier systems.

²⁰ As mentioned in MFOA's submission on the *Plan to Build Ontario Together Act, 2019*, MFOA recommends that the Province review the proposed appeal provisions so as to allow the LPAT to increase the amount of a community benefits charge when a by-law is appealed. In its current state, developers can never be made worse off from a LPAT appeal decision, which may be an incentive for developers to appeal municipal decisions and slowing down the development process overall. We believe that the appeal provisions in the *Development Charges Act, 1997* should be revised as well since these same limitations are found in the DCA.

April 20, 2020

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

Dear Mr. Ballantine:

Re: Comments on Draft Regulation 019-1406 – Changes to the Development Charges Act

On behalf of our many municipal clients, we are providing our comments on the draft Ontario Regulation 019-1406 regarding the proposed changes to the *Development Charges Act* (D.C.A.) and the *Planning Act*, related to the community benefits charge (C.B.C.) framework.

At the outset, we would like to thank the Ministry for some of the changes made thus far (i.e. returning parks, recreation, libraries, long-term care and public health services to the development charge (D.C.) calculation and removing the mandatory 10% deduction within the C.B.C. calculation), which will enhance a municipality's ability to recover the growth-related costs for these services.

1. Timing for Transition to the Community Benefits Charge

The specified date for municipalities to transition to community benefits will be one year after the C.B.C. authority is in effect.

- Given the amount of time to undertake this regulatory change, it is beneficial to extend the deadline from the original date of January 1, 2021.
- A 12-month transition period may appear sufficient; however, there are more than 200 municipalities in the Province with current D.C. by-laws. It will take some time for municipalities to consider the new C.B.C. methodology, evaluate the approach to these studies, collect background data (e.g. property value information), carry out the study, assess the implications relative to maintaining the current parkland acquisition practice, undertake a public process, and potentially pass a by-law. Based on our experience, the time-frame is limited and should be extended to at least 18 months. This suggested time period is consistent with the time-frame provided when major changes were made in 1997



to the D.C.A.; however, it is shorter than the 24-month period provided by the 1989 D.C.A.

- It is therefore requested that a minimum 18-month period be provided for municipalities to transition to a C.B.C.

2. Community Benefits Charge Formula

The C.B.C. will be limited to a maximum rate, set as a percentage of the market value of the land on the day before building permit issuance. The proposed maximum rates for the C.B.C. are as follows:

- *Single-tier municipalities: 15%*
- *Lower-tier municipalities: 10%*
- *Upper-tier municipalities: 5%.*

- The maximum rates were not identified in prior draft regulations. It is unclear at this time whether the percentage amounts provided are adequate for all municipalities to recover the same amounts as allowed under prior legislation.
- The legislation should allow for a combined maximum rate of 15% within a two-tier municipal structure; i.e. if, for example, an upper-tier municipality does not charge the maximum rate, the upper-tier municipality should be allowed to transfer (by resolution) a portion of its allotted maximum rate to the lower-tier municipalities so as to maximize their recovery. This would require justification by the lower-tier municipality that it requires recovery beyond the 10% maximum rate. The same would be allowed if lower-tier municipalities do not fully impose the maximum rate allocation, then the upper-tier municipality could utilize the unused allocation.
- There should be different maximum rates applied to residential and non-residential development. From preliminary analysis we have undertaken, the non-residential maximum rate should be in the range of 3% to 5% based on benefits received, whereas the residential maximum rate should be set much higher. We would perceive that the proposed uniform maximum rates would shift the costs burden from residential development to non-residential development and may have a negative impact on commercial/industrial development.

3. Community Benefits Charge Strategy

A C.B.C. strategy must be prepared to support the prescribed maximum rate restrictions (as discussed above). The draft regulation establishes the components of the strategy must include:

- *The C.B.C. strategy will have to set out the amount, type and location of growth*
- *There will need to be a parks plan included. This plan will need to identify the amount of parkland needed for growth*



- *The current level of service for parkland (i.e. parkland per person) must be calculated and indicated whether this will change in the future*
 - *The strategy will need to identify the anticipated increase in need for the service, as well as the capital costs*
 - *There will need to be deductions for excess capacity and benefit to existing*
 - *Grants, subsidies & other contributions will need to be deducted*
 - *C.B.C. appeal mechanism requires public notice of C.B.C. by-law passage*
 - *Interest rate for C.B.C. refunds upon successful LPAT appeal will be the Bank of Canada rate on the date the by-law comes into force or quarterly*
- Generally, most of the items noted above are consistent with the requirements of the D.C.A.; however, the requirement to prepare a parks plan is not. Currently, many municipalities do not have a parks plan. Given the time-frame for conformity to the C.B.C. legislation (one year after the C.B.C. authority is in effect), it does not appear that most municipalities would have enough time to complete this plan. Either this requirement needs to have transitional provision to allow municipalities to address interim policies, or the transition timing for C.B.C. compliance must be extended.
 - Germain to calculating the C.B.C. is to clearly understand how the application of the charge will apply to redevelopment (i.e. where buildings are demolished and replaced with another building – this could include conversions from residential to non-residential, vice versa, intensification, etc.). This needs to be better understood by municipalities to inform the strategy and calculation of the charge.
 - Is there a prescribed planning horizon for calculating the C.B.C. (e.g. 10 years) or is the municipality able to determine the planning horizon most suitable to its service planning?
 - Will there be a requirement for municipalities to establish current levels of service, for services other than parkland, to inform the increase in need for service?
 - What is included in the definition of capital costs? For example, can these costs include study and financing costs?
 - Is there a statutory public process required for by-law adoption (e.g. notice of public meeting, public meeting, public release of the strategy, time periods for public consultation)?
 - Will municipalities be required to impose the C.B.C. as a percentage of land value, or will the percentage simply be used to determine if the charge fits within the maximum rate relative to the value of land? For example, a municipality could impose C.B.C.s with a rate structure similar to a D.C. (e.g. charge per residential dwelling unit). When a developer applies for a building permit, a determination would need to be made by the applicant whether the charge payable, based on the type of dwelling being developed, exceeds the maximum permissible percentage of land value. The payment under protest provisions of the legislation provide for this. Allowing C.B.C.s to be imposed with structure similar to a D.C. provides for a tighter nexus between the charge and the



increase in need for service resulting from the development, in this example, by reflecting underlying differences in occupancy levels between different unit types. If the C.B.C. is expressed as a percentage of land value, then the C.B.C. would be more akin to a tax, since there would appear to be no clear relationship between land value and increase in need for service, particularly for the soft services within the jurisdiction of the C.B.C.

4. Building Code Act Amendment

Building Code Act will be amended to include a section to ensure C.B.C. payment must take place prior to building permit issuance.

- This is a positive change as it allows municipalities to withhold building permit issuance pending payment of the C.B.C.

5. Other Comments Previously Provided by Watson & Associates Economists Ltd. on the Act Amendments and Draft Regulations

5.1 Eligible Capital Costs for Community Benefits Charges

- What capital costs will be eligible as capital infrastructure for community services? The D.C.A. has an existing definition for capital costs which includes land, buildings, capital leases, furnishing and equipment, various types of studies and approvals, etc. Will these capital costs continue to be eligible as capital infrastructure under a C.B.C.?
- Will there be any limitation to capital costs for computer equipment or rolling stock with less than 7 years' useful life (present restrictions within the D.C.A.)?
- Will the cost of land appraisals, including annual appraisal studies, required for the C.B.C. be an eligible cost to be recovered through the C.B.C.?
- Will the C.B.C. strategy be an eligible cost to be recovered through the C.B.C.?
- Will the cost of an appeal to LPAT to support the charge be eligible for funding from C.B.C. revenues?
- For parkland dedication, most municipalities have a local service policy that defines the minimum standard of development on which the land will be dedicated (e.g. graded, seeded, fenced, etc.). Will the local service policy be allowed to continue? If not, how will this matter be handled policy-wise or cost-wise?
- Will planning-related studies (i.e. official plans, secondary plans, zoning by-laws, etc.) and/or growth-related financial studies (i.e. fiscal impact assessment of growth) continue to be recovered as a D.C. or are they to be recovered as a C.B.C.?



- Will outstanding debentures and credits related to services being moved from the D.C. regime to the C.B.C. regime be an eligible expense to be recovered as a C.B.C.?

5.2 Reporting on Community Benefits Charges

“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.”*

With regard to the above:

- Confirm that “special account” and reserve fund have the same meaning. If they don’t, please provide a definition for “special account.”
- In regard to “amounts allocated,” within the context of the legislation where 60% of funds must be spent or allocated annually, can amounts be allocated to a capital account for future spending (e.g. childcare facility in year 5 of a forecast period) or are they to be allocated for immediate spending only?
- Similar to D.C. reserve funds, can the funds in the special account only be used for growth-related capital costs (i.e. cannot be used as an interim financing source for other capital expenditures)?

5.3 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 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.”*
- Regarding the amount of interest accrued on money borrowed, confirm that “special account” and reserve fund have the same meaning.
- This section of the regulation is introduced to allow municipalities to continue using the current basic parkland provisions of the *Planning Act*. In contrast to the current reporting under s. 42 (15) of the *Planning Act*, however, which allows funds to be used “for park or other public recreation purposes,” the scope in this regulation is for “land and machinery.” Confirm whether the scope of services has been limited or continues to be the same.

5.4 Appraisals for Community Benefits Charges

It is proposed that,

- *“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 the 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.”*
- Is the third appraisal binding? Can this appraisal be appealed to the LPAT?
- Do all municipalities across the Province have a sufficient inventory of land appraisers (i.e. at least three) to meet the demands and turnaround times specified within the regulations?

5.5 Other Matters

- How are mixed-use developments that include exempt development types to be handled? For example, exempt institutional uses are planned for the first floor of a high-rise commercial/residential building.
- Will ownership or use determine the ability to impose the C.B.C.?
- In situations where large industrial or commercial properties are purchased for long-term purposes and only small portions of the full site are initially developed, is the C.B.C. calculated for the entire property or only the portion being developed at that time (with lot coverage



provisions)? As the property continues to develop, is the percentage applied to the existing and undeveloped portion of the land?

- D.C. by-laws must be revisited at least every five years. Is there a similar time period to be established for the community benefits strategy underlying the C.B.C.?
- Can municipalities still mandate the dedication of parkland in situations where the location is desirable, or must they only take a cash contribution? The ability to take land should be clarified.
- How often will the Province be reviewing the percentage caps to assess if they are sufficient or should be revised?

6. Potential COVID-19 Transitional Matters

We all recognize that during these times many sectors will be needing assistance to maintain a level of financial security and viability. Obviously the residential and non-residential building construction sector will experience a slow down during this period, as will municipalities, as local economies slow.

We have dialogued with a number of municipalities who are developing interim policies with respect to property taxes, water/wastewater rates, various fees and charges including D.C.s and potentially C.B.C.s. In our discussions regarding D.C.s, we have suggested that municipalities consider the short- and medium-term needs of the community and the economy.

Looking back 10 to 12 years at the last major economic downturn, one stimulus initiative provided by senior levels of government was to encourage municipal infrastructure construction by way of grant programs such as the “Build Canada” program. We would expect coming out of this downturn that municipal infrastructure construction could play an important role in assisting the Ontario and local economies. Hence, municipalities will be reliant upon their financial resources to achieve similar results as in the past. Based on this, it may be more beneficial to all stakeholders if the municipalities seek to delay the D.C. payments rather than exempt developments from the payment of D.C.s. This would continue to provide municipalities with the much-needed funding to undertake the necessary infrastructure construction to support the development industry. Moreover, the continued infrastructure construction will generate the need to purchase construction supplies and create construction jobs.



Based on the foregoing, should the Province seek to direct municipalities to adopt interim D.C. policies, we would recommend that these policies be focused on delayed payments versus exemptions or reductions.

Yours very truly,

WATSON & ASSOCIATES ECONOMISTS LTD.

Gary D. Scandlan, BA, PLE
Director

Andrew Grunda, MBA, CPA, CMA
Principal



Report: COR-FSD-20-07

Region of Waterloo
Corporate Services
Financial Services and Development Financing

To: Chair Sean Strickland and Members of the Administration and Finance Committee

Date: March 24, 2020 **File Code:** F27-50

Subject: Community Benefits Authority – Draft Regulation

Recommendation:

That the Regional Municipality of Waterloo endorse and submit to the Minister of Municipal Affairs and Housing the input and recommendations on the Proposed Regulatory Matters Pertaining to Community Benefits Authority Under the Planning Act, the Development Charges Act and the Building Code Act as set out in report COR-FSD-20-07 dated March 24, 2020.

Summary:

On February 28th, 2020 the Provincial government posted “Proposed Regulatory Matters Pertaining to Community Benefits Authority Under the Planning Act, The Development Charges Act, and the Building Code Act” for public comment. The proposal outlines several matters for public input to inform the further development of the Community Benefits Authority (CBA) under the Planning Act (PA). Comments are due by March 30, 2020.

Staff are encouraged to see that the draft regulation returns public libraries and parks and recreation to the DCA framework and removes the 10% mandatory discount for these services. Staff recommend that council express its thanks to the Province for reflecting the feedback from municipalities related to these services.

Beyond that, staff feel that several challenges remain with the proposed implementation of the CBA. It is clear, through review of the draft regulations pertaining to the CBA,

that the CBA essentially mirrors many of the policies and procedures already in place under the development charge framework. Implementation of the CBA will duplicate existing administrative processes and procedures in place to calculate development charges and accordingly staff recommend that the Province not implement a cumbersome and costly community benefits charge regime which will require additional studies, by-laws and administration. It would be preferable to add the relevant services to the existing DCA framework, rather than imposing a separate community benefits charge regime. Other recommendations include:

- Add municipal airports to the list of eligible services in the DCA;
- Extend the transition period to the date of expiry of a municipality's current DC by-law (the Region's by-law expires July 31, 2024) in order to align the timing of DC background study and community benefits charge strategy preparation; and
- Reconsider amendments to the PA that will, once proclaimed, establish a mechanism by which a community benefits charge by-law could be appealed to the LPAT.

This report summarizes the proposed content of the regulation and provides staff comments and recommendations (where applicable) with respect to the draft regulations pertaining to the CBA, DCA, and PA.

Report:

Background

Staff provided several updates over the past year regarding proposed changes to the Development Charges Act (DCA) and the Planning Act (PA) introduced through Bill 108, More Homes, More Choice Act 2019 and Bill 138 Plan to Build Ontario Together Act, 2019, including:

- COR-FSD-19-25: Region's Response to Bill 108, More Homes, More Choice Act, 2019 dated May 28, 2019;
- COR-FSD-19-41: Bill 108, More Homes, More Choice Act, 2019 – Draft Regulations dated August 13, 2019;
- COR-FSD-19-57: Bill 138, Plan to Build Ontario Together Act, 2019 dated December 3, 2019; and
- COR-FSD-20-01: Amendments to the Development Charges Act dated January 14, 2020.

The current status of the two bills and the related regulation is as follows:

- Bill 108 received Royal Assent on June 6, 2019;
- Bill 138 received Royal Assent on December 10, 2019;
- Certain sections of Bill 108 and 138 which amend the DCA were proclaimed and came into effect on January 1, 2020;
- O/Reg. 454/19 under the DCA was published on December 20, 2019; and
- Certain sections of Bill 108 relating to the proposed Community Benefits Charge (which amend both the DCA and the Planning Act) have yet to be proclaimed, pending regulations.
- Draft regulations posted to the Environmental Registry of Ontario for comment on February 28, 2020. Comments are due by March 30, 2020.

This report summarizes the proposed content of the regulation and provides staff comments and recommendations (where applicable) with respect to the draft regulations pertaining to the Community Benefits Authority (CBA), DCA, and PA.

Community Benefits Authority Draft Regulation

On February 28th, 2020 the Provincial government posted “Proposed Regulatory Matters Pertaining to Community Benefits Authority Under the Planning Act, The Development Charges Act, and the Building Code Act” for public comment. The proposal outlines several matters for public input to inform the further development of the Community Benefits Authority (CBA) under the Planning Act. Comments are due by March 30, 2020.

The proposed CBA would provide a mechanism for municipalities to fund a portion of growth related capital infrastructure costs of community services such as acquiring land for parks, affordable housing, child care facilities, parking, by-law enforcement and municipal airports.

To implement the new CBA, the province is seeking feedback on the following regulatory matters under the PA, DCA and Building Code Act:

1. Required content of a community benefits charge strategy
2. Services eligible to be funded through development charges
3. Percentage of land value for determining a maximum community benefits charge
4. Timeline to transition to the new CBA regime
5. Community benefits charge by-law notice
6. Minimum interest rate for community benefit charge refunds where a by-law has been successfully appealed
7. Building code applicable law

A summary of the proposed content of the regulation and staff comments and

recommendations (where applicable) follows.

1. Required Content of a Community Benefits Charge Strategy

a. Proposed Content

Before passing a community benefits charge by-law, a municipality must prepare a community benefits charge strategy. The strategy must include the following content:

- Anticipated type, amount and location of development or redevelopment
- Anticipated increase in the need for a specific community service resulting from new development
- A parks plan examining the need for parkland in the community
- Amount of parkland per person currently being provided
- Capital costs associated with the increased need for a specific community service resulting from new development
- Excess capacity that exists in those specific services
- An estimate of the benefit to the existing population
- Any grants, subsidies or contributions from other levels of government that are to be made in support of those services

b. Staff Analysis and Commentary

The process to develop a community benefits strategy as outlined in the draft regulation is to a great extent the same as prescribed by the DCA to calculate development charges with the possible exception of the parks plan. Implementation of the CBA will duplicate administrative processes, background studies and procedures that are already in place to calculate development charges. It would be more efficient and less costly to simply add the relevant services to the existing DCA framework.

c. Recommendation

That the Province not implement a cumbersome and costly community benefits charge regime which will require additional studies, by-laws and administration. It is not clear why moving to a community benefit charge by-law is deemed necessary when a framework is already in place in the DCA. It would be preferable to add the relevant services to the existing DCA framework, rather than imposing a separate community benefits charge regime.

2. Services Eligible to be Funded Through Development Charges

a. Proposed Content

The services that are eligible to be funded through development charges are listed under subsection 2(4) of the DCA. The list includes provisions for other services that may be prescribed in regulation. The following services are eligible for development charge recovery:

- Water supply services, including distribution and treatment services.
- Waste water services, including sewers and treatment services.
- Storm water drainage and control services.
- Services related to a highway as defined in subsection 1 (1) of the Municipal Act, 2001 or subsection 3 (1) of the City of Toronto Act, 2006, as the case may be.
- Electrical power services.
- Policing services.
- Ambulance services.
- Fire protection services.
- Toronto-York subway extension, as defined in subsection 5.1 (1).
- Transit services other than the Toronto-York subway extension.
- Waste diversion services.
- Other services as prescribed

The draft regulation proposes that the following services will added to the list of eligible services under the DCA:

- Public libraries, including materials;
- Long-term care;
- Parks development, such as playgrounds, splash pads, equipment and other park amenities (but not land acquisition)
- Public health; and,
- Recreation, such as community recreation centres and arenas

b. Staff Analysis and Commentary

Staff are encouraged to see that the draft regulation returns public libraries and parks and recreation to the DCA framework and removes the previous 10% mandatory discount for these services. Staff recommend that council express its thanks to the Province for reflecting the feedback from municipalities related to these services.

Staff are concerned that municipal airports have been omitted from the list of eligible services under the DCA. Municipal airports have historically been a DC eligible service for which the Region currently assesses development charges. Municipal airports are important components of the overall transportation infrastructure and accordingly should be included in the DCA framework similar to Roads and Transit. The omission from the DCA framework would mean that the funding required to support growth related infrastructure at the airport will have to transition to the community benefits strategy and potentially the tax levy. It is unclear at this point if the level of growth related costs at the airport recovered under the CBA framework will be similar to that recovered under the DCA.

c. Recommendation

That the Regional Council thank the province for returning libraries and parks/recreation to the DCS as eligible services and: and that the Province add municipal airports to the list of eligible services in the DCA, and if not, request the Province to establish a long term, predictable and stable funding program for the development and expansion of municipal airports. Historically, the Province of Ontario has only participated in airport capital funding through joint, shared infrastructure programs with the federal and municipal governments. Other provinces such as British Columbia and Saskatchewan have airport specific funding programs that can be used for safety and infrastructure enhancements that help strengthen local, regional and provincial economies.

3. Percentage of Land Value for Determining a Maximum Community Benefits Charge

a. Proposed Content

The CBA includes a mechanism to determine the maximum community benefits charge payable for any particular development. The maximum charge levied by a municipality cannot exceed the amount determined by applying the applicable proposed percentage to the value of the land that is subject to development on the day before the building permit is issued. The

proposed percentages of land value that would be prescribed in the regulation would be structured as follows:

- Single-tier municipalities: 15%
- Lower-tier municipalities: 10%
- Upper-tier municipalities: 5%

The legislation also prescribes a process for situations where the owner of the land is of the view that the amount of a community benefits charge imposed by the municipality exceeds the amount legislatively permitted and pays the charge under protest. In these situations, 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 the 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.

b. Staff Analysis and Commentary

It is unclear how the relative percentages were defined aside from the fact that the lower-tier and upper-tier charges would be equal to the percentage for single-tier municipalities. Staff maintain that there are several potential issues with this methodology including, but not limited to, the following:

- The value of the land is not necessarily related to the cost impact to the municipality i.e. high density development can result in higher costs to the municipality and therefore potentially should have a higher maximum CBC rate
- It is not certain that using land values will produce a result that is more predictable than the current per unit development charge
- The methodology for valuing land will have to be very clear to avoid confusion and delays at the time of municipal building permit issuance.
- It is unclear how the value of the land is initially set and who is responsible for providing the value at the time that the CBC is calculated
- The land appraisal process will add both additional costs and administrative time to the development approval process

- A single, defined percentage does not take into account the varying values of land for differences in types of developments, zoning, land use and geography.
- It is unclear how phased developments will be treated i.e. will the municipality collect the CBC on the entire site or on portions of the site as they are developed.
- It is unclear whether redevelopment credits will apply under the CBC regime as they do in the DCA.
- Construction costs and land values vary significantly both across and within municipalities

c. Recommendation

That the Province reconsider the need to establish a separate community benefits charge framework, and instead add the CBA-eligible services to the existing DCA framework.

4. Timeline to Transition to the New Community Benefits Charge Regime**a. Proposed Content**

The date by which municipalities must transition to the new CBA regime would be prescribed in regulation to the DCA. The prescribed date would be the deadline for establishing a community benefits strategy and by-law that would set out the community benefits charge payable in any particular instance, any municipal exemptions, and other details. It is proposed that the specified date for municipalities to transition to the CBA be one year from the date the proposed regulation comes into effect.

b. Staff Analysis and Commentary

The proposed process to establish a community benefits strategy and by-law is very similar to the process to undertake a development charge background study and by-law review which typically take longer than a year to complete. Staff are concerned that establishing a one-year deadline will not provide sufficient time for municipalities across the Province to transition to the CBA with the appropriate level of planning, analysis and stakeholder engagement.

c. Recommendation

That the transition period for the CBA be extended to the date of expiry of a municipality’s current DC by-law (the Region’s DC by-law expires July 31, 2024) in order to align the timing of a DC background study and CBA strategy preparation.

5. Community Benefits Charge By-law Notice

a. Proposed Content

Similar to the DCA, amendments to the PA will, once proclaimed, establish a mechanism by which a municipality’s community benefits charge by-law could be appealed to the Local Planning Appeal Tribunal (LPAT). The draft regulation sets out the notice provisions for a community benefits charge by-law that the municipality must comply with. The draft provisions provide guidance relating to who the notice must be provided to and the form the notice should take.

b. Staff Analysis and Commentary

Overall, staff remain concerned that CBC by-laws would be appealable to the Local Planning Appeal Tribunal (LPAT). The ability to appeal CBC by-laws creates significant revenue risk for municipalities. The proposed amendment to the PA also represents an administrative burden for municipalities. It undermines revenue predictability and municipal autonomy, and ultimately could delay the emplacement of growth-related infrastructure.

The specific notice provisions as set out in the draft regulation are similar to those in the DCA for appeals and are not a cause for concern at this point.

c. Recommendation

That the Province reconsider amendments to the PA that will, once proclaimed, establish a mechanism by which a municipality’s community benefits charge by-law could be appealed to the LPAT.

6. Minimum Interest Rate for Community Benefits Charge Refunds Where a By-law Has Been Successfully Appealed

a. Proposed Content

The mechanism to appeal a community benefits charge by-law includes a requirement for municipalities to provide full or partial refunds in the event of a

successful appeal. The interest rate paid on amounts refunded must not be less than the prescribed minimum interest rate which the draft regulations prescribes at the Bank of Canada rate on the day the by-law comes into force (updated for the first business day every quarter if applicable). This proposal aligns with the prescribed minimum interest rate for refunds of development charges under the DCA.

b. Staff Analysis and Commentary

As stated above, staff remain concerned that proposed amendments to the PA will provide a mechanism for a municipality's community benefits charge by-law to be appealed to the LPAT. Staff have no immediate concerns with the interest rate set out in the draft regulation relating to refunds.

c. Recommendation

NIL.

7. Building Code Applicable Law

a. Proposed Content

The building code sets out minimum administrative and technical requirements for the construction, renovation, demolition and change of use of buildings. It also establishes a list of applicable law that must be satisfied in order to receive a building permit. The draft regulation proposes that the building code be amended to establish a mechanism for ensuring the payment of community benefits charges prior to the issuance of a building permit as is the case with development charges.

b. Staff Analysis and Commentary

Staff support the draft amendment to the building code to establish a mechanism for ensuring the payment of community benefits charges prior to the issuance of a building permit.

c. Recommendation

NIL.

Concluding Comments

It is clear, through review of the draft regulations pertaining to the Community Benefits Authority, that the CBA essentially mirrors many of the policies and procedures already

in place under the development charge framework. Implementation of the CBA will duplicate existing administrative processes and procedures in place to calculate development charges. It would be far more efficient to simply add the relevant services to the existing DCA framework rather than implement a cumbersome and costly community benefits charge regime which will require additional studies, by-laws and administration.

Of particular concern to Regional staff is the omission of municipal airports from the eligible service list in the DCA. The Region's most recent development charge background study includes approximately \$20 million in potential DC recoverable costs for growth related infrastructure at the airport.

Staff recommend that Council endorse and submit to the Minister of Municipal Affairs and Housing the input and recommendations with respect to the impact of the "Proposed Regulatory Matters Pertaining to Community Benefits Authority Under the Planning Act, the Development Charges Act, and the Building Code Act" on municipal development charges and the proposed community benefits charge as set out in this report.

Corporate Strategic Plan:

This report supports strategic objectives found in the Corporate Strategic Plan, and particularly Focus Area 5.4 - Ensure the Region provides value for money and long term financial sustainability under Focus Area 5, Responsive and Engaging Public Service.

Financial Implications:

Although the Province has stated that one of the goals in transitioning to the CBA authority is to keep municipalities revenue neutral, it is still not clear how the proposed allocation between upper and lower tier municipalities achieves this objective.

The omission of municipal airports from the eligible service list in the DCA is concerning as the Region's most recent development charge background study includes approximately \$20 million in potential DC recoverable costs for growth related infrastructure at the airport. It is unclear at this point if the level of recovery of growth related costs at the airport under the CBA will be similar to that allowed under the DCA.

Staff will continue to assess the financial impacts related to Bill 108 and the associated regulations and report to Council as information becomes available.

Other Department Consultations/Concurrence:

Staff from Planning, Development and Legislative Services were consulted

Attachments

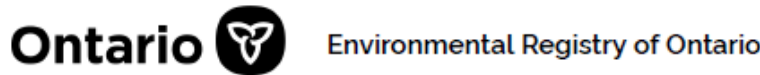
Appendix A: ERO – Proposed Regulatory Matters Pertaining to Community Benefits

Authority Under the Planning Act, the Development Charges Act and the Building Code Act

Prepared By: Shane Fedy, Manager, Infrastructure Financing

Approved By: Craig Dyer, Commissioner, Corporate Services/Chief Financial Officer

Appendix A



Proposed regulatory matters pertaining to community benefits authority under the Planning Act, the Development Charges Act, and the Building Code Act

ERO (Environmental Registry of Ontario) number	019-1406
Notice type	Regulation
Act	Planning Act, R.S.O. 1990
Posted by	Ministry of Municipal Affairs and Housing
Notice stage	Proposal
Proposal posted	February 28, 2020
Comment period	February 28, 2020 - March 30, 2020 (31 days) Open
Last updated	February 28, 2020

This consultation closes at 11:59 p.m. on:
March 30, 2020

Proposal summary

Proposed Regulatory Matters Pertaining to Community Benefits Authority Under the *Planning Act*, the *Development Charges Act*, and the *Building Code Act*

Proposal details

Introduction

In May 2019, the Minister of Municipal Affairs and Housing released *More Homes, More Choice: Ontario's Housing Supply Action Plan*. In support of the Action Plan, the Minister of Municipal Affairs and Housing introduced the *More Homes, More Choice Act, 2019* (Bill 108) which received Royal Assent on June 6, 2019. Schedule 12 of the Act, once proclaimed, establishes a new authority under the *Planning Act* for municipalities to charge for community benefits

with respect to land to be developed or redeveloped. Community benefits charges are intended to fund municipal infrastructure for community services, such as land for parks, affordable housing and child care facilities, that are needed to support new residents and businesses associated with new development.

On November 6, 2019, amendments to the community benefits charge provisions under the *Planning Act* were introduced through the *Plan to Build Ontario Together Act, 2019*. The Bill received Royal Assent on December 10, 2019. The amendments, set out under Schedule 31 of the Act, include new transition provisions for alternative parkland dedication and a mechanism to appeal a municipality's community benefits charge by-law to the Local Planning Appeal Tribunal.

The community benefits charge authority has not been proclaimed and is not in effect at this time.

This is the second regulatory proposal that the government has posted for public feedback on the proposed components of a new community benefits charge authority. The initial regulatory proposal was posted on the Environmental Registry of Ontario on June 21, 2019 ("Proposed new regulation pertaining to the community benefits authority under the Planning Act", ERO 019-0183).

This proposal outlines additional matters for public input to inform the further development of the community benefits charge authority and regulation under the Planning Act.

Proposal for public comment

This proposal outlines several matters related to the community benefits charge authority under the *Planning Act*.

The changes made by the *More Homes, More Choice Act, 2019* will mean that municipalities will have two primary funding streams to pay for the increased need for services due to new development.

Development charges are a mechanism for municipalities to pay for the capital costs of infrastructure like roads and sewers associated with new development. The government is also seeking feedback in this proposal on changes to the types of services that could be funded through development charges. It is

proposed that development charges could also pay for the capital costs of certain community services such as public libraries, parks development (other than acquiring land for parks) and recreational facilities (see Section #2).

The new community benefits charge would complement development charges by giving municipalities the flexibility to fund growth-related capital infrastructure costs of other community services. For example, funds generated through community benefits charges could be used to support community priorities such as acquiring land for parks, supporting affordable housing or building child care facilities which will be needed due to growth.

A municipality could choose to collect development charges to fund the development of new park facilities or enhance existing parks such as playgrounds and splash pads. To acquire the land needed to build new parks, a municipality would have the option of using one of the following tools under the *Planning Act*:

1. A municipality could apply the basic parkland dedication rate in which a maximum of either 5% (for example, for a residential development) or 2% (for a commercial or industrial development) of a proposed development is dedicated as parkland or cash-in-lieu is provided (section 42 "Conveyance of land for park purposes" and section 51.1 "Parkland" under the *Planning Act*).
2. Alternatively, a municipality could establish a community benefits charge by-law to collect funds to acquire land for parks as well as other community services such as affordable housing and child care. If both a developer and municipality agree, a developer could provide land for parks (rather than a payment). The agreed-upon value attributed to the in-kind parkland contribution would be applied toward the community benefits charge payable.

If a municipality has a community benefits charge by-law in place it cannot apply the basic parkland dedication provisions of the *Planning Act*.

To implement the new community benefits charge authority, the province is seeking feedback on the following regulatory matters under the *Planning Act*, the *Development Charges Act* and the *Building Code Act*:

1. Required content of a community benefits charge strategy
2. Services eligible to be funded through development charges
3. Percentage of land value for determining a maximum community benefits charge

4. Timeline to transition to the new community benefits charge regime
5. Community benefits charge by-law notice
6. Minimum interest rate for community benefits charge refunds where a by-law has been successfully appealed
7. Building code applicable law

1. Required content of a community benefits charge strategy

Before passing a community benefits charge by-law, a municipality must prepare a community benefits charge strategy. The strategy must identify the items that a municipality intends to fund through community benefits charges. It must also comply with any requirements that may be prescribed in regulation regarding the mandatory content that a strategy should address. In preparing a community benefits charge strategy, a municipality must consult, but has the flexibility to determine their consultation approach.

Proposal

To provide greater clarity about the components of a community benefits charge strategy, it is proposed that a municipality would need to include the following content in their strategy:

1. The anticipated type, amount and location of development or redevelopment that would be subject to a community benefits charge
2. The anticipated increase in the need for a specific community service (for example, the acquisition of land for parks, affordable housing, child care, etc.) resulting from new development or redevelopment
3. A parks plan that examines the need for parkland in the municipality
4. The amount of parkland per person currently being provided in the municipality, and if this is planned to increase, decrease or stay the same
5. The capital costs associated with the increased need for a specific community service resulting from new development or redevelopment
6. The excess capacity that exists in those specific services (for example, the extra capacity that exists in a service that is not currently being used)
7. Whether the increased provision of those specific services would also serve existing residents (for example, existing residents may also benefit from new child care facilities that are needed as a result of new development or redevelopment)
8. Any capital grants, subsidies, or contributions from other levels of government or other sources like donations that are anticipated to be made to support those specific services

2. Services eligible to be funded through development charges

The *Development Charges Act* provides authority for municipalities to impose development charges to pay for the increased capital costs of specific services that are needed as a result of new growth.

The services that are eligible to be funded through development charges are listed under subsection 2(4) of the *Development Charges Act*. The list includes a provision for other services that may be prescribed in regulation. The *Planning Act* stipulates that services funded by development charges may not be funded by community benefits charges.

When proclaimed, the *More Homes, More Choices Act, 2019* will make waste diversion and ambulance services fully recoverable through development charges.

The government is proposing to prescribe additional services to be funded under the *Development Charges Act*, through regulation.

Proposal

It is proposed that the following services would be identified in regulation under subsection 2(4) of the *Development Charges Act*:

1. Public libraries, including library materials for circulation, reference or information purposes
2. Long-term care
3. Parks development, such as playgrounds, splash pads, equipment and other park amenities (but not the acquisition of land for parks)
4. Public health
5. Recreation, such as community recreation centres and arenas

Development charges may be imposed to fully recover the capital costs related to the provision of these proposed services due to new growth. These proposed services would be ineligible to be funded through community benefits charges.

3. Percentage of land value for determining a maximum community benefits charge

The community benefits charge authority established through the *More Homes, More Choice Act, 2019*, includes a mechanism to determine the maximum community benefits charge payable for any particular development. The community benefits charge payable cannot exceed the amount determined by applying a prescribed percentage to the value of the land under development.

The ministry is seeking feedback on the proposed prescribed percentages through this posting.

Proposal

The proposed percentages of land value that would be prescribed in regulation under the Planning Act would be structured as follows:

- single-tier municipalities: 15%
- lower-tier municipalities: 10%
- upper-tier municipalities: 5%

In any particular case, the community benefits charge levied by a municipality could not exceed the amount determined by applying the applicable proposed percentage to the value of the land that is subject to development. The land value would be calculated as of the valuation date, which is the day before the date the building permit is issued in respect of the development or redevelopment.

The community benefits charges levied by municipalities would support the growth-related capital costs of acquiring land for parks, and other community benefits required because of development, such as child care facilities, affordable housing, social services, parking and by-law enforcement. There would need to be a connection between the community benefits charge levied and the increased need for community services associated with new development.

Different percentages are being proposed for single, upper and lower-tier municipalities to reflect the varying service delivery requirements of each tier of municipality to service new growth with community amenities. This percentage structure ensures that the combined percentage for upper and lower-tier municipalities would be equal to the percentage for single tier municipalities.

4. Timeline to transition to the new community benefits charge regime

The date by which municipalities must transition to the community benefits charge authority, if they wish to collect funds for community benefits, would be prescribed in regulation under the Development Charges Act, 1997. The prescribed date would be the deadline for establishing a community benefits charge strategy and by-law in order to charge for the capital costs of services funded through community benefits charges.

The community benefits charge by-law would set out the charge payable in any particular instance, any municipal exemptions, and other details.

Proposal

It is proposed 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.

This transition period would allow municipalities to prepare community benefits charge strategies and pass by-laws if they choose to implement a community benefits charge regime.

5. Community benefits charge by-law notice

The *Plan to Build Ontario Together Act, 2019* amended the *Planning Act* to establish a mechanism by which a municipality's community benefits charge by-law could be appealed to the Local Planning Appeal Tribunal. A municipality would be required to provide notice to the public when it passes a community benefits charge by-law. To implement the by-law appeal mechanism, requirements associated with how to provide public notice would be prescribed in regulation.

Proposal

To implement the appeal mechanism, it is proposed that upon passage of a community benefits charge by-law, a municipality would be required to comply with the following notice provisions. These provisions are similar to the notice provisions under the *Development Charges Act* regarding the passage of a development charges by-law:

1. Notice would be required to be given through newspaper or to every land owner in the area covered by the by-law through personal service, fax, mail or email.

2. Notice would also be required to be provided by personal service, fax, mail or email to those individuals who specifically request notice, the clerk of the lower or upper-tier municipality (if and as applicable), and the secretary of every school board having jurisdiction in the area covered by the by-law.
3. In order to facilitate public awareness of the passage of a community benefits charge by-law, notice would include the following:
 - i. A statement that the council of the municipality has passed a community benefits charge by-law.
 - ii. A statement setting out when the by-law was passed.
 - iii. A statement that any person or public body may appeal the by-law to the Local Planning Appeal Tribunal by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons supporting the objection.
 - iv. A statement setting out the last day for appealing the by-law.
 - v. An explanation of the charges imposed by the by-law.
 - vi. A description of the lands to which the by-law applies, a key map showing the lands to which the by-law applies, or an explanation why no description or key map is provided.
 - vii. An explanation of where and when persons may examine a copy of the by-law.

The date on which notice would be deemed to have been given would be:

- the newspaper publishing date if the notice is published by a newspaper
- the date the fax is sent, if the notice is faxed
- the date the email is sent, if the notice is emailed
- the date the notice is mailed, if the notice is sent by mail

6. Minimum interest rate for community benefits charge refunds where a by-law has been successfully appealed

The mechanism to appeal a community benefits charge by-law includes a requirement for municipalities to provide full or partial refunds in the event of a successful appeal. The interest rate paid on amounts refunded must not be less than the prescribed minimum interest rate.

Proposal

It is proposed that the minimum interest rate a municipality would be required to pay on amounts refunded after successful appeals would be the Bank of Canada rate on the date the by-law comes into force. Alternatively, if the

municipality's by-law so provides, the minimum interest rate would be the Bank of Canada rate updated on the first business day of every January, April, July and October.

This proposal aligns with the prescribed minimum interest rate for refunds of development charges after successful appeals under the *Development Charges Act*.

7. Building Code applicable law

The Building Code is a regulation under the *Building Code Act, 1992*. The Building Code sets out minimum administrative and technical requirements for the construction, renovation, demolition and change of use of buildings. It also establishes a list of applicable law that must be satisfied in order to receive a building permit. Municipalities enforce the Building Code and are responsible for issuing building permits for the construction, renovation, demolition or change of use of buildings.

Proposal

It is proposed that the Building Code be amended to add the community benefits charge authority to the list of items under Division A - Article 1.4.1.3 Definition of Applicable Law. This amendment would establish a mechanism for ensuring the payment of community benefits charges prior to the issuance of a building permit.

Public comment

Your feedback on the implementation of the community benefits charge authority will inform government decisions on the development of a new community benefits charge regulation under the *Planning Act* and amendments to regulations under the *Development Charges Act* and *Building Code Act*.

Submissions may be made online or provided via email to the contact below.

Supporting materials

Related links

[Planning Act \(https://www.ontario.ca/laws/statute/90p13\)](https://www.ontario.ca/laws/statute/90p13)

[Development Charges Act, 1997](https://www.ontario.ca/laws/statute/97d27)
(<https://www.ontario.ca/laws/statute/97d27>)

[Building Code Act, 1992](https://www.ontario.ca/laws/statute/92b23) (<https://www.ontario.ca/laws/statute/92b23>)

Related ERO (Environmental Registry of Ontario) notices


[Proposed new regulation pertaining to the community benefits authority under the Planning Act \(/notice/019-0183\)](/notice/019-0183)

View materials in person

Some supporting materials may not be available online. If this is the case, you can request to view the materials in person.

Get in touch with the office listed below to find out if materials are available.

Municipal Finance Policy Branch
College Park 13th flr, 777 Bay St
Toronto, ON
M7A 2J3
Canada

 [416-585-6111](tel:416-585-6111)

Comment

Let us know what you think of our proposal.

Have questions? Get in touch with the contact person below. Please include the [ERO \(Environmental Registry of Ontario\)](#) number for this notice in your email or letter to the contact.

[Read our commenting and privacy policies. \(/page/commenting-privacy\)](/page/commenting-privacy)

Submit by mail


John Ballantine
Municipal Finance Policy Branch


College Park 13th flr, 777 Bay St
Toronto, ON
M7A 2J3
Canada

Connect with **Contact**

US

John Ballantine

 [416-585-6348](tel:416-585-6348)

 john.ballantine@ontario.ca