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November 23, 2022

Submitted online to Environmental Registry of Ontario and [MFPB@ontario.ca](mailto:MFPB@ontario.ca)

**Re: Bill 23: Build More Homes Faster Act, 2022**

***ERO 019-6172 – Proposed Planning Act and Development Charges Act Changes:  
Providing Greater Cost Certainty for Municipal Development-related Charges***

To whom it may concern:

ERO Number 019-6172 was posted onto the Environmental Registry of Ontario on October 25, 2022, requesting comments on proposed amendments to the *Planning Act and Development Charges Act, 1997*. Comments are to be submitted by November 24, 2022.

While the Town thanks the Province for consulting on the proposed amendments, the Province needs to engage in further and comprehensive dialogue with municipalities to understand the full financial impact associated with the proposed changes. If implemented, the amendments are likely to significantly delay the construction of growth-related infrastructure, which will impede the delivery of housing. The proposed amendments to the *Planning Act* will also impact the livability of new and transitioning communities.

The amendments proposed through Bill 23 are contrary to the core principle of growth paying for growth. In an effort to rectify Ontario's housing crisis, the proposed changes will make long-term home ownership costs unaffordable by shifting the growth-related financial burden to taxpayers currently struggling with the high cost of inflation on food and utilities, funding an infrastructure deficit, and various climate change impacts.

The Town urges the Province to reconsider the proposed amendments, and engage in meaningful dialogue with municipalities to find additional methods for achieving the Province's housing goals. The attached comments will be forwarded to a future Council meeting and a copy of a resolution of Council endorsing the comments will be provided at a later date.

Included as Attachment 1 with this letter are comments prepared by staff from the Town's Planning and Development Services Department and Finance Department. These comments highlight the significant financial impacts that are expected as a result of the proposed amendments.

Thank you again for providing the Town with the opportunity to provide comments and for your consideration of these comments. Should you have any questions please contact Sean McCullough, Supervisor, Planning Policy and Research at [Sean.mccullough@ajax.ca](mailto:Sean.mccullough@ajax.ca) or (905) 619-2529 ext. 3234 and he will endeavour to coordinate a response.

Regards,



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

ATT 1: Town of Ajax Comments on ERO 019-6172 Municipal Development-related Chagres

Copies:

Patrice Barnes, MPP, Ajax  
Steve Clark, MPP, Minister of Municipal Affairs and Housing  
Shane Baker, Chief Administrative Officer, Town of Ajax  
Dianne Valentim, Director of Finance/Treasurer, Town of Ajax  
Jason McWilliam, Manager of Legislative Services/ Acting Clerk  
Stev Andis, Manager of Planning, Town of Ajax  
Sean McCullough, Supervisor of Planning Policy and Research, Town of Ajax  
Julie Mephram, Manager, Budgets and Accounting, Town of Ajax

## ATT 1: Town of Ajax Comments on ERO 019-6172 Municipal Development-related Charges

ERO 019-6172 – Proposed Planning Act and Development Charges Act, 1997 changes: Providing Greater Cost Certainty for Municipal Development Related Charges	
Proposed Amendment	Town of Ajax Comments
<p><u>Development Charges Act</u> The following amendments are proposed to the Development Charges Act:</p> <ol style="list-style-type: none"> <li>1. Amendments propose to remove costs associated with studies from being eligible for inclusion in the calculation and collection of DCs. Examples of ineligible studies would include Development Charge Background Studies, Official Plan Reviews, and Master Plans. It is unclear at this time if Environmental Assessments would be eligible.</li> <li>2. Amendments propose to remove costs associated with the purchase of land related to DC projects from being eligible for inclusion in the calculation and collection of DCs.</li> <li>3. The amendments propose to require that new DC rates be phased in over a 5-year period. Meaning that new rates would be discounted in year 1 (20% discount) with the discount gradually decreasing (year 2–15%, year 3–10%, year 4–5%) until the full rate is applied in year 5. The legislation does not distinguish whether these rate reductions only apply to residential or if they also apply to non-residential developments.</li> </ol>	<p>The Town <b>does not support</b> this amendment. Studies are completed prior to construction and/or acquisition of growth-related infrastructure to ensure the capital costs included in the quantum of the DC charge are fair and reasonable, allowing the construction of infrastructure in a timely and affordable manner. Based on the 2018 DC Background Study, this amendment would impact \$2.1 million in Town studies over the next 10 years that would instead be funded by existing taxpayers and/or non-DC sources. The funding for these tools would render them cost-prohibitive to complete when considering the additional tax impact that will be borne by taxpayers once the Provincially required Asset Management funding strategy is put in place by July 1, 2025.</p> <p>The Town <b>does not support</b> this amendment. Based on the 2018 DC Background Study this would impact \$12.6 million in land acquisition costs over the next 10 years. Land costs must be included in the capital cost calculations, otherwise the current taxpayers will be responsible for land acquisition costs of growth-related infrastructure, or the projects will be significantly delayed or cancelled. The result would be contradictory to the objective of providing sufficient infrastructure to support growth.</p> <p>The Town <b>does not support</b> the arbitrarily phasing in of rates over a 5-year period. If the proposed rate reductions were to be applied historically to the 2018 DC rates and collections experienced by the Town from July 1, 2018 to June 2022, the Town would have lost \$4.6 million in DC collections over the 4 year period (average \$1.15M per year). The calculated rate is based on a formula and need for growth-related infrastructure and the phase in is an arbitrary reduction which would impact the Town’s ability to collect the funds required to build infrastructure. The DC collection rate could potentially be less than what was being collected prior to a new by-law coming into effect, which will put additional pressure on the ability to fund infrastructure projects already planned for the foreseeable future. This will cause delays for existing plans and construction of infrastructure. Additionally, the Town</p>

<p>4. Amendments propose the introduction of a new definition for “Affordable Housing”. An affordable residential unit, is housing that is 80% of the average market rent or average market price. To determine the rates, the Ministry would issue bulletins outlining the average rent or price. The amendments identify that affordable housing units, rental, and ownership, that are maintained for 25 years, and registered on title, would be exempt from paying DCs. Similar amendments have been made to the Planning Act that would exempt these units from paying Parkland Dedication and a Community Benefits Charge.</p> <p>5. Amendments propose the introduction of a new definition for “Attainable Housing”. An ‘attainable housing unit’ is only defined as not being a rental unit or an affordable unit as defined above, that is developed as part of a prescribed class of development and meets prescribed criteria to be established through regulation. Attainable housing units would be exempt from DCs when first sold. The developer would be required to enter into an agreement with the municipality which may be registered on title. Similar amendments have been made to the <i>Planning Act</i> that would exempt these units from paying Parkland Dedication and a Community Benefits Charge.</p> <p>6. Amendments would require that beginning in 2023, municipalities would need to spend or allocate 60% of</p>	<p><b>does not support</b> the application of these rates to the non-residential classes of development as it does not achieve the Province’s goal of building more housing.</p> <p>It is not understood how municipalities would ensure that the affordable housing be in place for a 25-year period and it is unclear how the municipality would collect lost DC revenues if this housing type were to be converted to a use other than affordable housing before the 25-year anniversary date. The monitoring and enforcement of agreements registered on title will be an administrative burden on municipalities.</p> <p>It is not understood how municipalities would ensure that the affordable housing be in place for a 25-year period and it is unclear how the municipality would collect lost DC revenues if this housing type were to be converted to a use other than affordable housing before the 25-year anniversary date. The monitoring and enforcement of agreements registered on title will be an administrative burden on municipalities.</p> <p>The Town <b>does not support</b> the exemptions for an attainable housing unit as the criteria further defining this housing type have yet to be prescribed through regulation, and staff are unsure what an ‘attainable housing unit’ is. It is not understood how municipalities would ensure that the attainable housing be in place for the period stated in the agreement with the developer and it is unclear how the municipality would collect lost DC revenues if this housing type were to be converted to a use other than attainable housing. The monitoring and enforcement of agreements registered on title will be an administrative burden on municipalities.</p> <p>The Town <b>does not support</b> this amendment as it could limit the ability for the Town to fund large strategic road and bridge construction projects that may be planned for construction beyond a typical 10-year capital budget.</p>
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<p>DC reserves associated with municipal highways (roads).</p> <p>7. Historical service level for DC eligible capital costs (except transit) are proposed to be extended from 10 to 15 years.</p> <p>8. The maximum interest rate applied to developments eligible for a Development Charge deferral is proposed to be limited to bank prime plus 1%.</p> <p>9. Amendments would extend the expiry of a DC by-law from 5 years to 10 years.</p>	<p>The Town <b>does not support</b> extending the timeframe for calculating the historical service level from 10 to 15 years, as the historical level of service would decrease the calculated cap, thereby further reducing the charge, and would not be reflective of the needs of the community.</p> <p>While the Town understands the rationale to cap the interest rate, it will become a greater administrative burden to ensure the quarterly rate changes are properly documented and applied throughout our various processes. In addition, this will provide less predictability to developers as the rate will fluctuate more frequently than the Town’s current semi-annual adjustment. Since the passage of Bill 108, the Town’s has applied interest to site plans and zoning by-law amendments at a rate lower than the proposed maximum rate and maintained that rate consistent from site plan and zoning by-law amendment to building permit issuance, then an updated rate from building permit issuance through final instalment payment. The proposed amendment, along with the other proposed changes, will require the maximum rate to be applied to recover as much of the lost DC revenue as possible.</p> <p>The Town <b>supports</b> this amendment as long as the DC phase-in is removed from the calculation of the rate. A 10-year DC by-law would provide stability for both the development community and the Town. This would, however not preclude the Town from advancing their DC background study and by-law should they strategically choose to do so prior to the 10 year expiry.</p> <p>The required phasing of DC rates over 5 years is a punitive measure to discourage municipalities from adopting updated bylaws more reflective of growth-related needs and current market construction costs. While a municipality may decide to take either of the following approaches, either decision could cost the existing taxpayer as 10 years is a rather short financial planning horizon with many uncertainties that need to be addressed:</p> <ul style="list-style-type: none"> <li>A. <b>Reviewing the merits of updating a DCBS before the 10 year mark</b> will result in additional staff time and/or consultant costs to determine the viability of this option.</li> <li>B. <b>Keeping the active background study until it expires</b> will likely result in a lost opportunity to collect updated Development charges.</li> </ul>
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Parkland

The following amendments are proposed to *the Planning Act*:

10. 'Locking' the amount of land or payment required for parkland dedication on the date that a site plan or zoning by-law amendment is submitted for two (2) years. In the absence of either of these applications, the date of building permit would continue to apply.
  
11. The maximum alternative parkland dedication requirement is proposed to be halved from 1 hectare per 300 dwelling units to 1 hectare per 600 dwelling units where land is conveyed; and from 1 hectare per 500 dwelling units to 1 hectare per 1,000 dwelling units where cash-in-lieu is provided.
  
12. In addition to halving the alternative requirement, the proposed changes would limit the alternative requirement to 10% of the land area or value for sites less than five (5) hectares; and 15% for sites greater than five (5) hectares. This change would also apply retroactively to any application where a building permit has not been issued prior to subsection 12(11) Schedule 9 of Bill 23 coming into force.
  
13. Proposed changes would require municipalities to pass a parks plan prior to passing a parkland dedication by-law, instead of prior to adopting Official Plan policies.

The Town **does not support** locking in the amount of land or payment required upon submission of an application. Determining the rate upon application submission and locking the amount for 2 years will reduce the land value in turn reducing the parkland dedication. In addition to the significant time gap, valuating the land at time of application will not consider the highest and best use until the Zoning By-law Amendment has been approved, further reducing the value. This amendment only penalizes municipalities and further reduces land and payments for parkland dedication. Creating a two year time frame only prolongs the time that an applicant has to construct. The Town's Parkland Dedication By-law accepts land appraisals for one year. The provision should be amended to lock in the rate for a maximum of one year from that date a formal land appraisal is submitted to the municipality.

The Town **does not support** the proposal to slash the alternative parkland dedication requirement. Parkland is required to support complete communities and is especially needed in medium and high density developments that provide limited outdoor amenity space. The Town recently completed its parkland dedication by-law, and established a rate of 1 hectare per 615 dwelling units for high density development based on the Town's capital forecast.

The Town **does not support** the proposal to implement a maximum land area or value of 10-15%. Limiting parkland based on land area does not apply a consistent rate as density increases. Areas with increased density are precisely the neighbourhoods requiring parkland the most. Further, the Town **does not support** this legislative change applying retroactively as some development where land would be required have been ongoing for months and years.

The Town is not opposed to this proposal, however, parks plans also assist in the preparation of Official Plans by identifying strategic or underserved neighbourhoods requiring parkland. Staff have concerns that timing may not align with the updating of Official Plan policy and Parkland Dedication By-laws, and Parks Plans may be required to be updated more frequently, having a financial impact on the municipality.

<p>14. The proposed changes create a process for an owner of land to identify encumbered land to be conveyed to the municipality, in accordance with prescribed criteria established by the Province, to fulfill their parkland dedication requirements in whole or part. The identified land may include land encumbered with below grade infrastructure, utilities or easements. If the municipality agrees, an agreement may be registered on title. If the municipality refuses, the municipality must issue a notice of refusal, and the owner may appeal the decision to the Ontario Land Tribunal. The Tribunal would determine if the land meets prescribed criteria and the amount contributed towards the required parkland dedication requirement.</p>	<p>The Town <b>does not support</b> the proposal to have the Province establish criteria to require municipalities to accept encumbered land for parkland, nor does it support a the Ontario Land Tribunal making those decisions. Having landowners and the Province decide how parkland is provided will not enable the Town to meet the diverse recreational needs of the community. Additionally, the Town will have the maintenance and legal responsibility, and it should be up to the Town to decide what parkland it accepts.</p> <p>As the Town identified in comments submitted in April 2019 in response to Bill 109, Planning for complete communities and transit-oriented communities will require strategic planning to identify the best locations for parkland or other community facilities to support future residents. Parks are dynamic spaces that can accommodate a variety of recreational needs and buildings for various recreational purposes. In many cases, buildings or structures cannot be constructed on easements; if parkland only includes encumbered land it will limit what the parkland can be used for, and what can be built on those lands. Additionally, parkland in built-up area are increasingly being used for dual purposes to support other infrastructure needs such as underground stormwater management facilities. Requiring encumbered land to be conveyed to municipalities for parkland purposes and counting it towards parkland contribution will result in communities with disjointed parkland areas that do not align with planning visions for an area, impede opportunity to provide a full range of recreational services, and reduce a municipality's ability to fulfill other obligations such as stormwater management.</p> <p>All the parkland proposals combined, to affix the rate at a reduced valuation, halve the maximum alternative requirement, applying a maximum percentage of 10-15%, and potentially require municipalities to accept encumbered land or strata parks will have consequential and devastating impacts on parkland within communities across Ontario, especially in high density communities. The Town <b>strongly urges</b> the Province to reconsider the proposed changes. Finally, the Town asks that the Province review the roll out of these legislative changes and truly understand the financial impact that it is having on municipalities.</p>
<p>15. The proposed changes would limit the amount of parkland dedication that 'affordable housing units' and 'attainable dwelling units' would contribute to 5% of the land, on a proportionate basis.</p>	<p>The Town <b>supports</b> reduced parkland dedication for 'affordable dwelling units', but the Town <b>does not support</b> reduced parkland dedication for 'attainable dwelling units'. The Province has not identified what 'attainable dwelling units' are, only what they are not. The Province needs to better define what an 'attainable dwelling unit' is, and what the prescribed class and/or criteria is, and release the definition and criteria for meaningful consultation in order to understand the magnitude of the potential financial impact.</p>

<p>16. Non-profit housing development would be exempt from contributing to parkland dedication.</p> <p>17. Exemption of additional dwelling units (accessory and detached accessory dwelling units) from contributing to parkland dedication.</p> <p>18. Amendments require municipalities to spend or allocate 60% of the parkland reserve balance at the end of each year.</p> <p>Note: Corresponding changes listed above were made to both sections 42 and 51.1 of the Planning Act.</p>	<p>The Town <b>supports</b> the exemption for non-profit housing from providing parkland dedication.</p> <p>The Town has <b>no concerns</b> with an exemption of additional dwelling units from providing parkland dedication as this is common practice.</p> <p>The Town <b>does not support</b> this amendment. Small and medium sized municipalities are limited in the amount of parkland dedication that is actually received each year. Parkland reserve accounts operate similar to a savings account and require municipalities to build up reserves in order to acquire parkland. This amendment will not incent municipalities and will only impede the acquisition of parkland.</p> <p>The Province recently required municipalities to pass a new parkland dedication by-law by September 18, 2022. The Town spent approximately \$45,000 to update the by-law, plus costs to process related appeals. The amendments proposed to the Planning will require the Town to update its by-law months after the last update. Poor coordination of legislative changes is unnecessarily costing municipalities significant financial resources.</p>
<p><u>Community Benefits Charge</u></p> <p>19. Changes are proposed to the Community Benefits Charge that would permit municipalities to only collect a charge that is proportionate to the new building floor area compared to the total floor area on a site (including existing floor area).</p> <p>20. Changes are also proposed to exempt the applicable CBC for building containing 'affordable', 'attainable', and Inclusionary Zoning housing units.</p>	<p>The Town <b>supports</b> this change as it is considered reasonable and provides needed direction. The Town is currently in the process of preparing a Community Benefit Charge Strategy, and this was a topic identified to be addressed in the by-law.</p> <p>The Town <b>does not support</b> the discounting of 'attainable' housing units from a Community Benefits Charge as the Province has not identified the type of prescribed housing that this would apply to.</p>
<p><u>General Comment:</u> The amendments proposed through Bill 23 are contrary to the core principle of growth paying for growth. In an effort to rectify Ontario's housing crisis, the proposed changes will make long-term home ownership costs unaffordable by shifting the growth-related financial burden to taxpayers currently struggling with the high cost of inflation on food and utilities, funding an infrastructure deficit, and various climate change impacts.</p>	



The proposed measures would limit infrastructure investments needed in the Town and would discourage development. Much of the growth-driven expenditures will be pushed onto existing taxpayers, who already actively voice their concerns over the tax increases required to maintain existing services and infrastructure they rely on each day. As the Town shifts to intensification, the cost of expanding roads, storm sewers, fire, recreation, and library services is higher due to the complexity of construction and higher land costs. The shortfall in growth funding will either fall on the tax base or be required from the provincial and federal governments. Otherwise, significant delays are to be expected for growth-related infrastructure due to budget constraints. The known impact to the Town would be an approximate \$1.9M annually. This equates to an annual tax levy increase of 2.5%. This figure does not include anticipated funding loss of the exclusions for attainable/affordable housing, the extension of historical service level from 10 year to 15 years, the discount on purpose-built rentals, and reduced parkland dedication. The Province would need to provide significant and ongoing funding for capital infrastructure projects required to facilitate growth in order to meet the housing goals.