



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division
and
Legal and Risk Management Services Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	August 15, 2019
SUBJECT/REPORT NO:	Bill 108 " <i>More Homes, More Choice Act, 2019</i> " - Proposed Regulations Comment Submission related to the <i>Development Charges Act</i> and Community Benefits Authority under the <i>Planning Act</i> (FCS19057(a) / LS19023(a)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Lindsay Gillies (905) 546-2424 Ext. 2790 Michael Kovacevic (905) 546-2424 Ext. 4641
SUBMITTED BY: SIGNATURE:	Mike Zegarac General Manager, Finance and Corporate Services Corporate Services Department
SUBMITTED BY: SIGNATURE:	Nicole Auty City Solicitor, Legal and Risk Management Services Corporate Services Department

RECOMMENDATIONS

- (a) That Council endorse the comments, recommendations and requests contained within Appendix "A" attached to Report FCS19057(a) / LS19023(a) related to the Province's proposed changes to O. Reg. 82/98 under the *Development Charges Act* related to Schedule 3 of the *More Homes, More Choice Act, 2019*;
- (b) That the General Manager of Finance and Corporate Services be authorized and directed to submit to the Province, the letter attached as Appendix "A" to Report FCS19057(a) / LS19023(a), as the City's official comments related to the Province's proposed changes to O. Reg. 82/98 under the *Development Charges Act* related to Schedule 3 of the *More Homes, More Choice Act, 2019*;

**SUBJECT: Bill 108 "*More Homes, More Choice Act, 2019*" - Proposed Regulations
Comment Submission related to the *Development Charges Act* and
Community Benefits Authority under the *Planning Act* (FCS19057(a) /
LS19023(a) (City Wide) – Page 2 of 8**

- (c) That Council endorse the comments, recommendations and requests contained within Appendix "B" attached to Report FCS19057(a) / LS19023(a) related to the Province's proposed new regulation pertaining to the community benefits authority under the *Planning Act*;
- (d) That the General Manager of Finance and Corporate Services be authorized and directed to submit to the Province, the letter attached as Appendix "B" to Report FCS19057(a) / LS19023(a), as the City's official comments related to the Province's proposed new regulation pertaining to the community benefits authority under the *Planning Act*;
- (e) That the General Manager of Finance and Corporate Services, in consultation with the City Solicitor, be authorized to make submissions on *Bill 108, More Homes, More Choice Act, 2019* and any associated regulations consistent with the concerns raised in Report FCS19057(a) / LS19023(a) and Appendix "A" and Appendix "B" to Report FCS19057(a) / LS19023(a);
- (f) That the City Clerk forward this report to the Ministry of Municipal Affairs and Housing, the Ministry of Environment, Conservation and Parks, Hamilton's Members of Provincial Parliament (Donna Skelly - Flamborough—Glanbrook, Andrea Horwath - Hamilton Centre, Paul Miller - Hamilton East—Stoney Creek, Monique Taylor - Hamilton Mountain and Sandy Shaw - Hamilton West—Ancaster—Dundas) and the Association of Municipalities Ontario.

EXECUTIVE SUMMARY

On May 2, 2019, Bill 108, *More Homes, More Choice Act, 2019*, (the Act) was introduced at the Ontario Legislature. The Act received Royal Assent on June 6, 2019. Schedule 3 of the Act makes amendments to the *Development Charges Act, 1997*, S.O. 1997 c.27 (DC Act) and Schedule 12 of the Act makes amendments to the *Planning Act*, R.S.O. 1990 c.P.13 (Planning Act). For the purposes of Report FCS19057(a) /LS19023(a), the relevant amendments to the Planning Act are to section 37 (Community Benefits Charges (CBCs)) and section 42 (Parkland Dedication).

On June 21, 2019 a description of the proposed changes (the Proposal) to O. Reg. 82/98 under the DC Act related to Schedule 3 of the Act and a description of new regulations and changed regulations under the Planning Act (collectively referred to as the Regulations) were released by the Province and posted on the Environmental Registry of Ontario for commenting. The commenting period, provided by the Province of Ontario, for the proposed regulation content closes on August 21, 2019.

**SUBJECT: Bill 108 "*More Homes, More Choice Act, 2019*" - Proposed Regulations
Comment Submission related to the *Development Charges Act* and
Community Benefits Authority under the *Planning Act* (FCS19057(a) /
LS19023(a) (City Wide) – Page 3 of 8**

The purpose of Report FCS19057(a) / LS19023(a) is to recommend to Council that it endorse and provide to the Province the comments, concerns and requests, in regard to the Regulations, set out in the letters attached as Appendices "A" and "B" to Report FCS19057(a) / LS19023(a).

The Province has released proposed regulation content but has not released full draft regulations. The first request, in both letters is that the Province release full draft regulations for consultation.

The concerns and requests to the Province raised in Appendices "A" and "B" to Report FCS19057(a) / LS19023(a) are consistent with the comments endorsed by Council through Report FCS19057 / LS19023 related to the initial Bill 108 consultation.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no financial implications related to the endorsement and submission of comments which is what Report FCS19057(a) / LS19023(a) recommends.

Related to the amendments that the Act makes to the DC Act and the associated proposed regulation content, the impacts are under review and will be reported back to Committee once the full regulation details are released by the Province or earlier, as appropriate. Specifically, once the calculation methodology related to a CBC calculation has been released.

Staffing: There are no staffing implications related to the endorsement and submission of comments which is what Report FCS19057(a) / LS19023(a) recommends.

Related to the amendments that the Act makes to the DC Act, it is expected that additional administration support, in the form of full-time equivalent positions (FTEs), will be required to support the effective implementation and management of the amendments made by the Act. The specific details on these costs are under review and will be impacted by the content contained within the final regulations. The impacts will be presented through a staff report later this year or as part of the 2020 budget process.

**SUBJECT: Bill 108 "*More Homes, More Choice Act, 2019*" - Proposed Regulations
Comment Submission related to the *Development Charges Act* and
Community Benefits Authority under the *Planning Act* (FCS19057(a) /
LS19023(a) (City Wide) – Page 4 of 8**

Legal: There are no legal implications related to the endorsement and submission of comments which is what Report FCS19057(a) / LS19023(a) recommends.

The comments contained within Appendix "A" attached to Report FCS19057(a) / LS19023(a) raises concerns around a legal risk that the proposed legislation will impose on municipalities. Specifically, the legislation does not provide a municipality with a tool to notify purchasers of deferred development charges (DCs). This inability to place notice on title poses a risk when a property is sold prior to full collection of the legislated DC instalment plans.

Legal Services and the Financial Planning, Administration and Policy Division will continue to monitor the status of the regulations associated with the Act and report back, as necessary.

HISTORICAL BACKGROUND

May 2, 2019	Bill 108, <i>More Homes, More Choice Act, 2019</i> , (Bill 108) was introduced at the Ontario Legislature.
May 29, 2019	The City of Hamilton's draft comments on Bill 108 were submitted to the Province.
May 29, 2019	Bill 108 completed its second reading at the Ontario Legislature.
June 1, 2019	The Provincial deadline to submit comments on Bill 108.
June 6, 2019	The City's Audit, Finance and Administration Committee endorsed the City's draft comments as the City's official comments. Council ratified this decision at the June 12, 2019 Council meeting.
June 6, 2019	Bill 108 completed its third reading at the Ontario Legislature.
June 6, 2019	Bill 108 received Royal Assent at the Ontario Legislature.
June 21, 2019	The Province released proposed regulation content.
August 21, 2019	The last day the Province will receive submissions regarding consultation on the proposed regulation content.

**SUBJECT: Bill 108 "*More Homes, More Choice Act, 2019*" - Proposed Regulations
Comment Submission related to the *Development Charges Act* and
Community Benefits Authority under the *Planning Act* (FCS19057(a) /
LS19023(a) (City Wide) – Page 5 of 8**

Based on the information contained within the proposed regulation content, it is anticipated that the Act will be proclaimed into force by January 1, 2020.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

There are no policy implications or legislative requirements related to the endorsement and submission of comments attached as Appendices "A" and "B" to Report FCS19057(a) / LS19023(a) which is what Report FCS19057(a) / LS19023(a) recommends.

The City is undertaking a cross-departmental approach in reviewing the impacts of the legislation as information is released to determine how to support the effective implementation and management of the changes arising through the Act.

RELEVANT CONSULTATION

- Planning and Economic Development Department
- Healthy and Safe Communities Department
- Public Works Department

As additional information related to the Act and the regulations is released, further cross-departmental reviews and assessments will be required in order to assess and quantify the impacts of the proposed changes.

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

The amendments resulting from the Act are a significant departure from the current legislative framework. Staff comments and concerns are detailed in the recommended comments and requests to the Province, attached as Appendices "A" and "B" to Report FCS19057(a) / LS19023(a).

The most significant change the Act makes to DCs is the limitation on what services can be included in DCs. Services that were the subject of a 10% discount in DCs, so called soft services, are no longer permitted to be included in DCs. Waste diversion and ambulance are no longer considered soft services and will remain as eligible services in the DC Act. The Act provides the ability to enact a CBC By-law. One intent of a CBC is to replace the soft services component of DCs. One impact of a CBC by-law is that once a CBC By-law is in place, any current parkland dedication By-law would have no force or effect. Therefore, to maintain revenue neutrality as indicated as an intent by the Province, a CBC By-law would also replace the parkland dedication revenues.

**SUBJECT: Bill 108 "*More Homes, More Choice Act, 2019*" - Proposed Regulations
Comment Submission related to the *Development Charges Act* and
Community Benefits Authority under the *Planning Act* (FCS19057(a) /
LS19023(a) (City Wide) – Page 6 of 8**

The Act requires that before passing a CBC a municipality must prepare a strategy that complies with prescribed requirements. There is no content in the Proposal relating to the strategy or how CBC calculations will need to be carried out. In addition, the percentage of land value that will function as the CBC cap has also not been released by the Province. This detail is required in order to attempt to estimate the potential future cash flow from a CBC compared to the cash flow from the existing municipal tools.

The Proposals do provide for the following amendments to the DC Act Regulations:

- (1) A prescribed date of January 1, 2021, after which soft service DCs can no longer be collected. In other words, if the City has not passed a CBC By-law prior to January 1, 2021 it will no longer be able to collect DCs for soft services.
- (2) Definitions of the types of development that will have DC payment delayed through instalments, with the initial payment occurring at occupancy.
- (3) The amount of a DC would be set at the time of receipt of a site plan application, or if a site plan is not submitted, at the time of receipt of an application for a zoning amendment (the status quo would apply for developments requiring neither of these applications). The development charge would be frozen until two years from the date the site plan application is approved, or in the absence of the site plan application, two years from the date the zoning application was approved.
- (4) That the Province will not be prescribing a maximum interest rate that can be charged on frozen rates and instalment payments.
- (5) More, but incomplete, detail related to the types of secondary suites that will be statutorily exempt from DCs.

The Proposals do provide for the following new regulation content under the Planning Act relating to Community Benefits Charges (CBCs):

- (1) A prescribed date of January 1, 2021, after which soft service DCs can no longer be collected. In other words, if the City has not passed a CBC By-law prior to January 1, 2021 it will no longer be able to collect DCs for soft services.
- (2) That reporting requirements will be similar to existing DC and parkland reporting requirements.
- (3) That parkland dedication reporting requirements, for those with parkland special accounts, will be similar to existing parkland reporting requirements.

- (4) That the following types of development will be exempt from a CBC:
- Long-term care homes,
 - Retirement homes,
 - Universities and colleges,
 - Memorial homes, clubhouses or athletic grounds of the Royal Canadian, Legion
 - Hospices, and
 - Non-profit housing.
- (5) A request for input on the percentage of land that should be used as the cap for a CBC.
- (6) The timelines for the appraisal process in the event of a CBC paid under protest.
- (7) Services that cannot be included in a CBC calculation, which are consistent with the exclusions in the current DC Act.
- (8) That a CBC By-law cannot be imposed in an area where a community planning permit system is in effect.

Appendices "A" and "B" to Report FCS19057(a) / LS19023(a) explore each of the above items and provide comments, concerns and requests for each.

The risk to a municipality of non-payment when a development is sold between building permit issuance and the final DC instalment payment has not been addressed through the Proposals. The Province has not provided municipalities with a tool to register notice of deferred DCs on title. The comments and requests raised in Appendices "A" and "B" to Report FCS19057(a) / LS19023(a) highlight this risk and request that the Province take steps to eliminate the risk.

The Province has stated that an intent of the Act is to maintain revenue neutrality while consolidating parkland dedication and the DC soft services into one community benefits charge. At the same time, the proposed regulation content requires mandatory exemptions from the new CBC tool for a variety of development types which are currently subject to DCs and parkland. The Province has not yet released the CBC calculation methodology and, therefore, staff is unable to assess if revenue neutrality is expected for the City of Hamilton. If the Act does not maintain full revenue neutrality, the changes resulting from its implementation will impact the methods available to finance growth projects. In addition, the Act adds significant administrative requirements and delays the cash flow of DCs. These costs and the cost of financing capital projects will ultimately be passed on through either the DC or the CBC, as able, or property taxes.

**SUBJECT: Bill 108 "*More Homes, More Choice Act, 2019*" - Proposed Regulations
Comment Submission related to the *Development Charges Act* and
Community Benefits Authority under the *Planning Act* (FCS19057(a) /
LS19023(a) (City Wide) – Page 8 of 8**

The concerns and requests to the Province raised in Appendices “A” and “B” to Report FCS19057(a) / LS19023(a) are consistent with the comments endorsed by Council through Report FCS19057 / LS19023 related to the initial Bill 108 consultation.

ALTERNATIVE FOR CONSIDERATION

None

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS19057(a) / LS19023(a) – City of Hamilton Submission on Proposed changes to O. Reg. 82/98 under the Development Charges Act related to Schedule 3 of the *More Homes, More Choice Act, 2019*

Appendix “B” to Report FCS19057(a) / LS19023(a) – City of Hamilton Submission on Proposed new regulation pertaining to the community benefits authority under the Planning Act

LG/MK/dt