Document 2 - Draft Staff Analysis and Comments Table

Row no.	Portion of the Bill	Staff Analysis	Recommended City Comment
1	Schedule 1 - *Cannabis Control Act*	• Adds additional enforcement powers for police for premises that are not licensed to sell cannabis	City supports the amendment.
2	Schedule 2 – *Conservation Authorities Act*	• Does not relate to City operations	The City has no comment.
3	Schedule 3 – *Development Charges Act* – removal of soft services (parks development, recreational facilities, libraries, corporate studies, paramedic services, affordable housing)	• The amendment removes soft services from development charges (refer to Memo from Legal Services) • Shifts paying growth related soft services to the Community Benefits Charge – which has an overall cap based on an unspecified percentage of land value. Refer to comments below on Community Benefit charges. • In 2018, the City received approximately $32 million for soft services from DCs • Soft Services make-up 6.62% or $159.9M in dc eligible costs over 10 years. • This has a significant revenue impact on the City and the potential to shift growth related costs from development charges to the property tax base, (e.g. over $89M in growth-related funding for future recreation facilities would be eliminated)	The City urges the Province to withdraw this portion of the legislation and take more time to consult with municipalities on appropriate ways to contain growth-related costs for soft services. Growth should continue to pay for growth under the existing prescriptive set of requirements. Reducing development charges means more competition for other limited funding sources such as property taxes and user rates. Existing taxpayers and ratepayers will have to fund the cost of growth-related infrastructure. This transfer of costs to existing homeowners, including seniors and low-income families, will increase their overall cost of housing. There is no evidence that reductions in development charges will result in a decrease in new house prices.

4	Schedule 3 – *Development Charges Act* – waste diversion services	• The amendment reduces the statutory deduction for waste diversion services which will allow the City to collect full growth-related costs	The City supports the removal of the 10% statutory reduction, which required taxpayers to fund eligible growth-related costs.
5	Schedule 3 – *Development Charges Act* – Payment over six installments for certain uses (rental housing, institutional, industrial, commercial, and non-profit housing)	• These uses will be able to pay their DCs in six installments over five years • The City only has the ability to charge interest at a prescribed rate • This will have a cash flow impact on the City's collection of development charges • The City has an interest in promoting non-profit and purpose-built rental housing • There may be an economic development benefit to deferrals of charges for industrial and commercial, and the new rules are clear and applicable to all businesses	This will result in an overall reduction in revenues and will delay the construction of the required infrastructure needed to support growth. There is a requirement to be built water and waste water services in advance of development, but these upfront costs will have to financed, to a greater extent by municipalities. The reduction in cash flow will negatively impact the repayment process and increase the financial risk. There are issues with to how to ensure the six payments are made and the overall administration (e.g. what are the requirements to communicate first occupancy, what happens when properties change hands over repayment period, how will the annual carrying costs be recovered). In our case, requiring payment using installments will not allow the City to continue to provide the financial assistance that has been provided in the past via a lump sum cash payment for the construction of growth-related infrastructure.
6	Schedule 3 – *Development Charges Act* – calculation of applicable rates tied to timing of site plan or zoning application	• Rates are set earlier in the application process (refer to memo by Legal Services) • Short term cash flow impact to the City until a new by-law is adopted that spreads overall growth-related costs over different assumptions of when charges will be paid • The City will also have to develop a new tracking system to administer the complex process.	The City has no comments • In reference to Short term cash flow: in reviewing the Act presumably the Regulations will establish the prescribed amount of time where a zoning or site plan application can be used to grandfather the DC rate. • There should be a requirement to have a mechanism in place for applicants to pay their development charges as quickly as possible rather than to be allowed to submit an initial application and then wait several years to obtain their first building permit. The City will also have to develop a new tracking system to administer the complex process. • Linking the applicable development charge rates to the timing of site plan or zoning applications will fundamentally alter the matching principle by which growth-related expenses over the by-law period are required to be matched with the revenues generated by the fees. Inevitably, a significant discrepancy in timing will develop that will impact the City's ability to deliver the capital projects that were the basis for the development charge calculation. • Suggest following Addition to the Province: Provide legislative authority to register Section 27 agreements (agreements for early or late payment of development charges) on title.

			Suggest amending Schedule 3 (Development Charges Act) of Bill 108 to provide: Section 27 of the Act is amended by adding the following subsection: (4) A party to an agreement under this section may register the agreement or a certified copy of it against the land to which it applies.
7	Schedule 4 – *Education Act*	• Does not relate to City operations	The City has no comments.
8	Schedule 5 – *Endangered Species Act*	• Sets new rules for how species are listed • Allows for the Minister to enter into compensation "landscape agreements" • We are concerned that the proposed changes to Section 18 of the ESA may enable future downloading of responsibility onto the City, if the Province later decides to make Planning Act approvals into "regulated activities" under the ESA (i.e., our Planning approval would also constitute approval under the ESA in some circumstances – which would place greater pressure on our planners to ensure that species at risk were appropriately considered) • Many of the other proposed changes regarding the listing and protection of species could provide the City with some relief regarding our projects (since it will take longer for species to be listed and gain protection under the Act, and new authorization options are being introduced) • Operational changes already in effect may impact approvals or other authorizations currently being sought due to the reduction in provincial staff resources	The City has insufficient information to comment.
9	Schedule 6 – *Environmental Assessment Act*	• Closes a legal loophole that exposes low risk Schedule A and A+ municipal projects to Part 2 Order Requests (an order to do a full individual environmental assessment). Those projects are municipal operations and minor projects.	The City supports the amendment.

		• Until recently they were interpreted as "pre-approved". A relatively recent MOECP decision determined they were exposed to Part 2 orders • Amendment responds to a request from the Municipal Engineers Association	
10	Schedule 7 – *Environmental Protection Act*	• Adds enforcement powers for the Province to seize vehicles used in a provincial environmental offence	The City supports the amendment.
11	Schedule 8 – *Labour Relations Act*	• Does not relate to City operations	The City has no comment
12	Schedule 9 – *Local Planning Appeal Tribunal Act*	• Enables LPAT to require alternative dispute resolution process • Enables LPAT to limit cross examination of a witness in specific circumstances • Limits the role of non-parties in a hearing • Limits the LPAT from referring a case to Divisional Court • Reintroduces *de novo* hearings	It is staff's opinion that Council is unlikely to reach a consensus on this matter, and consequently recommend that Council take no position on this issue. Should individual Councillors wish to make their own submissions to the Province on this topic, staff will provide advice.
13	Schedule 10 – *Occupational Health and Safety Act*	• Minor technical amendments to process that have no real impact on City operations	The City has no comments.
14	Schedule 11 – *Ontario Heritage Act* – procedural matters & HCDs	• The legislation sets new procedures for Heritage Registers, adoption of a designation by-law, repeal of by-laws, and alterations to property. The alterations to procedures will have an effect on the City's procedures but they are manageable. • There is no timeline provided for the owner to file an objection to the listing on the Register after the notice has been issued. This means that a new owner could object to a listing of the property on the Register prior to their ownership. • The proposed objection process for Listing under Section 27 will require Council to	The City supports clarifying the process of notification and appeal, however, however, the City suggests the objection period for the Register (Section 27) should be defined and limited to reflect the appeal periods found in other sections of the Act (i.e., Section 29(5) and 41(4). The City requests that Section 27 be amended to provide for a more efficient listing process to require the City to notify an owner in advance of listing a property under Section 27 and allow an owner to object to listing at a statutory public meeting before Council decides to list properties on the Register. If this change is made, subsection 27(9) should be applicable from the date that notice is given respecting the proposed listing. The City suggests that the proposed changes to 41(1) 3, which implies that HCD Plans must include a description of heritage attributes for every property in an HCD, be clarified.

		consider listings on the Register twice, once when the property is added and again after an owner has filed an objection. • Section 41(1) 3, which implies that HCD Plans must include a description of heritage attributes for every property in an HCD, would potentially be a significant undertaking to update the existing information to conform with these requirements as the City's post-2005 plans do not contain this information and revisions to these plans to include this information.	
15	Schedule 11 – *Ontario Heritage Act* – appeals	• Appeals no longer go to the Conservation Review Board – they now go to the LPAT. The City's experience is that the vast majority of appealed heritage applications are accompanied by planning applications, so the matter would have been heard by LPAT. Staff feel this simplifies the process. • The Conservation Review Board currently reviews appeals related to the designation of individual properties under Part IV of the Act. The CRB makes a non-binding recommendation to City Council on appeals under this part. • The proposed changes will mean that appeals related to Part IV designations will now be forwarded to the Local Planning Appeals Tribunal, removing Council's power to make the final decision related to Part IV properties. • The proposed changes require Council to consider a property twice (i.e., 1st prior to issuing the Notice of Intent; and 2nd if an objection to the Notice of Intent is received).	The City requests the Province appoint LPAT members with heritage conservation experience. The City requests that Section 29 be amended to provide for a more efficient process as follows: a) allow objections to a notice of intention to designate at a statutory public meeting before Council makes any decision respecting designation; b) only permit an owner or individual to appeal a notice of intention to designate to the Tribunal, who has made an objection at a statutory public meeting to appeal a notice of intention to designate to the Tribunal; c) make the decision of Council to issue Notice of Intention to designate appealable, rather than the bylaw itself.

		This would result in an increased demand on BHSC and Council. • The proposed objection process for designation under Part IV is inefficient and will require Council to consider Notices of Intention to designate twice, once when the Notice of Intention is issued and again if the property owner objects to the Notice of Intention. In addition, the owner can later appeal a designation by-law to LPAT.	
16	Schedule 12 – *Planning Act* – secondary units	• Requires permission of secondary units. • The City already permits secondary units. However, this amendment would make it permissible in all single detached semis and towns + coach house type units – Ottawa ZBL already permits SDUs in singles, semis, towns (Except in Village of Rockcliffe) – would change Ottawa ZBL and also allow coach house even if you already have a secondary dwelling unit.	The City supports the intent of the amendment, but the City requests that it be changed so that the City has the option to permit either a secondary unit or a coach house, or both.
17	Schedule 12 – *Planning Act* – inclusionary zoning	• The amendment limits inclusionary zoning to major transit station areas or areas where the Minister designates an area as a Development Permit Area. • The introduction of a Development Permit system in a city of Ottawa's size and complexity is a major undertaking that would take years and considerable resources to implement. • The City has not yet fully studied the potential impacts of a partial geographic application of the IZ tool, but it has been suggested through preliminary discussions with stakeholders that limiting the use of inclusionary zoning to the vicinity of major transit stations is likely to	The City believes that implementation of inclusionary zoning is likely to focus on transit station areas in the near term, which is consistent with what is permitted under the proposed amendment. However, because the City has not fully studied the implementation of inclusionary zoning, it cannot rule out that areas outside of major transit station areas would also be appropriate candidates for inclusionary zoning in the mid- to long- term. We request that the existing municipal discretion be maintained, or alternatively a mechanism to apply to the Ministry to include other areas in the future that are not tied to the development permit process.

		create a disincentive to development near those stations. • Unclear why the Province is linking inclusionary zoning to development permits.	
18	Schedule 12 – *Planning Act* – Decision timelines	• Decision timelines are reduced by approximately 40% for OPAs and rezoning. This would make it more difficult to meet timelines for Council decision on planning applications. • Although this moderately increases the risk of an appeal by an applicant for a lack of decision, staff feel the risk is low, since applicants are still more likely to complete their process with the City before their appeal is ever heard by LPAT • These changes in timelines may have the operational effect of transferring more of the processing work to the pre-application stage. • Changes in timelines may impact our ability to comply with the Public Notification and Consultation Policy. • Don Herweyer stated: Timelines will not likely be met on complex applications unless there is a corresponding reduction to the notification, public notice requirements spelled out in the Act, not likely to generate a significant increase in appeals however given cost and time to go to LPAT	The City has no comments.
19	Schedule 12 – *Planning Act* – various changes to grounds for appeal	• The amendments effectively reset the legislation to what it was before 2017 • Since the new legislation had not been in effect for long, this has no real impact on the City's approach	The City has no comments.

		• Removes public appeal rights on plan of subdivision applications (The legislation limits the public appeal rights on plan of subdivisions to the applicant and specified public agencies, utilities etc.)	
20	Schedule 12 – *Planning Act* – Community benefits charge	• The amendment replaces development charges for soft services, Section 37, and cash in lieu of parkland with a new community benefits charge • This creates a duplicate process to the Development Charges by-law for soft services, is administratively burdensome and will not yield as much revenue to the City • 60% of community benefits charges must be spent within one year of collection. Staff feel that this clause jeopardizes the City's ability to save up for larger projects, and that this matter should be a local decision rather than a provincial decision. • In 2018, the City received approximately $9.5 million in cash in lieu revenue and $1 million from Section 37 benefits) • For new subdivisions, the City will have to choose between getting parkland dedication (land) or a Community Benefit charge.	The City urges the Province to withdraw this portion of the legislation and take more time to consult with municipalities on appropriate ways to contain growth-related costs for soft services. Growth should continue to pay for growth. But if charges in some areas of Ontario are too high, it would be far more effective to introduce new rules in the existing Development Charges legislation rather than introducing a parallel process. If the Province is committed to proceeding despite Ottawa's opposition, we urge the Province to: • Exclude parkland dedication from this formula and retain the existing system of parkland dedication or cash in lieu • Remove clause 37 (27) from the legislation - the requirement to spend 60% within one year. • Keep existing Section 37 provisions intact. Alternatively, limit s. 37 application to situations where additional density is granted through an Official Plan Amendment. In the further alternative, should the Province decide to remove the existing Section 37 provisions, the City would ask that the percentage of land value limit for Community Benefit Charges should be higher in situations where an OPA is granted for increased density. • The City strongly insists that the legislation be explicit in stating that section 37 and existing DC and CILP agreements will be honoured with no retroactivity to the new legislation.
21	Schedule 12 – *Planning Act* – Mandatory Development Permit System	• Gives the Minister the power to impose a development permit system in a municipality for purposes to be prescribed by regulation. • Staff feel that this is comparable to the powers the Minister currently has under Minister's	The City has no comments.

		Zoning Order so there is effectively no change to the power of the Minister to impose planning rules in a municipality. This just enables a development permit system in addition to a Minister's Zoning Order • Until the regulations come out, it is not clear what this will be used for, but likely to upzone areas near major transit stations. Since the City is being proactive in this regard, it is unlikely this would be necessary in Ottawa	
22	Schedule 13 – *Workplace Safety and Insurance Act*	• Amendments do not apply to municipalities	The City has no comment.
23	Lack of Regulations and Guidelines	Many of the proposed legislative changes will be further defined through Regulations and Guidelines, which are anticipated in the latter half of 2019 (according to communication from the Ministry of Tourism, Culture and Sport).	It is anticipated that the City will have more comments related to the contents of the proposed Regulations.