



**Jim Watson**  
Mayor / Maire

**Office of the Mayor  
City of Ottawa**

110 Laurier Avenue West  
Ottawa, Ontario K1P 1J1  
Tel.: (613) 580-2496  
Fax: (613) 580-2509  
E-mail: Jim.Watson@ottawa.ca

**Bureau du Maire  
Ville d'Ottawa**

110, avenue Laurier Ouest  
Ottawa (Ontario) K1P 1J1  
Tél.: (613) 580-2496  
Télééc.: (613) 580-2509  
Courriel : Jim.Watson@ottawa.ca

August 20, 2019

Hon. Steve Clark  
Minister of Municipal Affairs and Housing  
Government of Ontario  
17th Floor, 777 Bay St.  
Toronto, ON M5G 2E5

Dear Minister Clark,

Bill 108, *More Homes, More Choice Act, 2019* received Royal Assent on June 6, 2019. It includes a new system of “Community Benefits Charges” (“CBCs”) intended to replace certain development charges under the *Planning Act*.

Two proposed regulations pertaining to Development Charges and CBCs have been published and are open for comment from June 21 to August 21, 2019 (ERO numbers 019-0184 and 109-183 respectively). This letter summarizes comments prepared by the staff of the City of Ottawa and is further to comments on the Bill 108 legislative amendments which were approved by Planning Committee on May 23, 2019 and received by Council on June 12, 2019.

**Proposed new regulation pertaining to the community benefits authority under the Planning Act, ERO number 019-0183**

Section 5 of this Proposal would give municipalities the authority to charge for community benefits at their discretion to fund a range of capital infrastructure for community services needed because of new development, including libraries, parkland, daycare facilities and recreation facilities. The maximum amount that can be charged is to be determined by a formula involving the application of a prescribed percentage to the value of the land under development (the value of the land on the day before the building permit is issued).

The Proposal anticipates that a range of percentages will be prescribed to take into account varying values of land and seeks feedback from stakeholders on how these percentages should be determined.

In determining the prescribed percentages, the Province has identified two goals:

- To ensure that municipal revenues historically collected from development charges for “soft services”, parkland dedication (including cash in lieu of parkland) and density bonusing are maintained; and
- To make costs of development more predictable.

Replacing the current system of development charges for “soft services” and parkland dedication with CBCs could have serious repercussions for the City of Ottawa if the effect of the formula reduces the amount of revenue generated to fund these services. Any deficit would fall to local taxpayers, which is not consistent with the principle that growth should pay for growth. The Proposal recognizes that reducing total municipal revenue is not desirable outcome and growth should pay for growth.

The Bill 108 amendments which have been enacted require that the cap imposed on CBCs be calculated based on the land value of the land under development. As articulated more fully in the City’s submission on Bill 108 and its presentation to the Standing Committee, the City questions whether land value is the best means of calculating a cap on CBCs, given that there is no apparent correlation between the levels of soft service utilization and land value. As the requirement that the CBC cap be calculated based on land value is stated in the amended legislation, which has already received Royal Assent, the comments in this letter assume that no reconsideration will be given to the use of land value as the basis for the CBC cap.

**The City has the following comments regarding this Proposal:**

1. The City agrees that percentages used in the CBC cap formula must vary by municipality (or by regional groupings of municipalities).
  - The Proposal recognizes that a range of percentages would be needed to take into account varying values of land across the province. Land values in Ottawa are vastly different from those in Toronto and other Ontario municipalities. However, the costs of installing and maintaining municipal infrastructure and services do not differ as greatly between regions.
2. Even within municipalities, land values and the relative costs of services may vary considerably. The CBC cap rate (or a range of cap rates) should be calculated to take into account differences in density within a municipality. For example:
  - Downtown and Inner urban areas of Ottawa are the most underserved in parks and recreation spaces in the City but these are the areas that are adding the most population and pressure for City services. The cap should be high enough to account for the relatively higher costs of land and park development in the urban area as compared to the rural/suburban area.

3. Currently municipalities do not have access to land values data nor do we have the capacity to undertake land appraisals with internal resources for the thousands of properties that would be subject to this charge each year.
  - The City would like to ensure that a predictable level of soft services and parkland are provided through the new CBC by-law system. While municipalities know how much we collected from the DC soft service areas, section 37 and cash-in-lieu of parkland, we have no mechanism to determine what percentage should apply to land values to raise the same amount. The problem is that our databases, including the property assessment values used for taxation, do not include specific land values. We do not collect land value information during the development process except for those that are paying cash in lieu of parkland. Without a database of values individual appraisals would be required which is expensive and time consuming.
4. Given the above-described limitations in the available data, the formula used to calculate the cap on CBC should be based on an conservative land value which differentiates cap percentages applicable to urban, suburban, and rural areas across the city. A conservative valuation should be adopted for the purposes of this exercise to avoid over-valuation of land in the municipality and thus setting a cap that is too low to preserve levels of revenue required for existing public service provision. A higher CBC cap would also reduce the administrative burden of the regime because it will reduce the number of appeals and competing appraisals that the development community will have to undertake.
5. To meet the Province's stated goal of prescribing a CBC cap which ensures similar levels of municipal revenue under the new CBC regime as under the past regime, the City assumes that the Province will consider existing revenues, including current levels of parkland dedication. On that issue the City notes:
  - the City of Ottawa has demonstrated leadership with respect to parkland dedication. The City of Ottawa's self-imposed 10% of land area maximum on parkland dedication in the densest residential areas of the City (5% of land area in less dense residential areas) is fair and reasonable and supportive of residential development in all sectors of Ottawa. The current 10% land area maximum is expected to leverage at least 30 acres of new parks in the downtown and inner urban area during the next 10 years as demonstrated in the 2019 Development Charges update. Overall, Ottawa's current approach to parkland dedication is low when compared to other municipalities: Toronto's maximum is 20%, Richmond Hill and Newmarket's are 25%, Waterloo's is 15%.

The City looks forward to consulting with the Province on forthcoming regulations related to the specifics of how CBC by-laws will function in practice. In particular, the City hopes these regulations will provide additional guidance on how CBCs may differentiate between areas of the city with different density and permit in-kind payment of charges, such as dedication of parkland or developer-built services or facilities, as these issues are especially important in Ottawa's context.

**Proposed changes to O. Reg. 82/98 under the Development Charges Act, ERO number 019-0184**

This Proposal sets out transition provisions for the new Bill 108 changes to the *Development Charges Act*, addresses the rules for the date as of which development charges will be calculated on development, and addresses exemptions for additional dwelling units.

**The City has the following comments regarding this Proposal:**

The City requests that the Province explicitly permit the registration of *Development Charges Act* section 27 deferral agreements in this regulation. Other agreements authorized by the *Act* are permitted to be registered on title, such as front-ending agreements. Registration will serve the dual purpose of preserving a municipality's interest in the deferred payment and notifying subsequent owners of the outstanding charge in respect of the property, of which they may not be aware otherwise. Suggested language to include in the regulation is:

- A party to an agreement under Section 27 of the Act may register the agreement or a certified copy of it on the title of the land to which the agreement applies.

The City of Ottawa continues to be appreciative of the collaborative nature of the consultations and is looking forward to continuing to work with the Government as the new regulations are implemented.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Watson', written over a horizontal line.

Jim Watson  
Mayor  
City of Ottawa