

City of Markham Comments on Proposed Regulations related to Bill 108, *More Homes, More Choice Act, 2019*

July 26, 2019

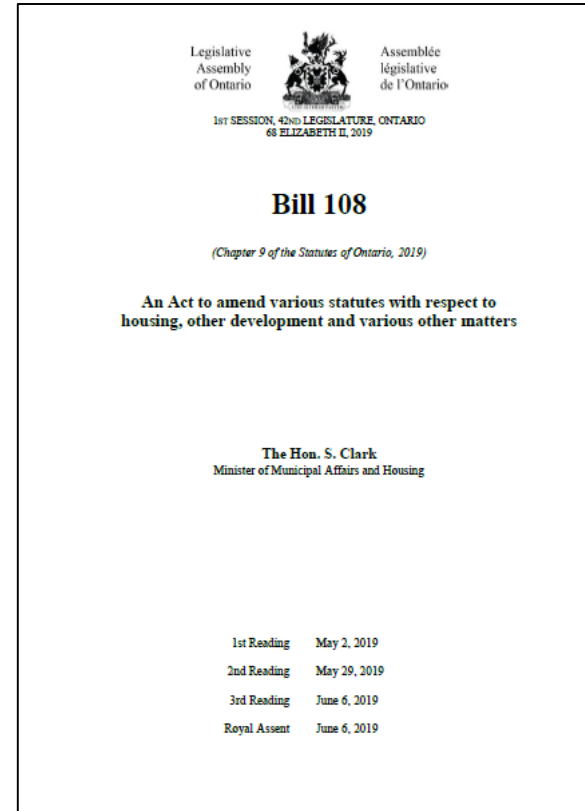


Bill 108 *More Homes, More Choice Act 2019*

- November 2018 Provincial Consultation Document on Increasing Housing Supply
- May 2, 2019 Provincial release of the More Homes, More Choice: Ontario Housing Supply Action Plan – aims to make it faster and easier to build housing under these themes: speed, cost, mix, rent, innovation
- To support the Action Plan, draft Bill 108, *More Homes, More Choice Act, 2019* also released
- 8 Provincial Acts were proposed to be amended that impact local planning and funding for provision of community services from new development
 - Planning Act
 - Development Charges Act
 - Local Planning Appeal Tribunal Act
 - Conservation Authorities Act
 - Endangered Species Act
 - Ontario Heritage Act
 - Education Act
 - Environmental Assessment Act

Bill 108 *More Homes, More Choice Act 2019*

- May 28, 2019 Markham Council endorsed comments on proposed Bill 108
- June 6, 2019 Bill 108 enacted but majority of the Bill not in force until Proclamation by Lieutenant Governor



Key Changes from Bill 108 – New Community Benefits Charge

CURRENT



HARD DEVELOPMENT CHARGES



SOFT DEVELOPMENT CHARGES



PARKLAND & CASH IN-LIEU



SECTION 37 CHARGES

Bill 108 Enacted



HARD SERVICES, FIRE SERVICES
WASTE MANAGEMENT

Development Charges (*Development Charges Act*)



LIBRARY, RECREATIONAL SERVICES,
PARKS DEVELOPMENT

Community Benefits Charge (*Planning Act*)

Key Changes from Bill 108 (Continued)

Planning	Require official plan policies to authorize an additional residential unit in a detached house, semi-detached house, or row house as well as an additional unit in an ancillary building
	Inclusionary zoning limited to major transit station areas or community planning permit areas
	Minister can require a community planning permit system that applies to a specified area or to an area surrounding and including a specified location
	Reduced decision timeframes for OP/OPA (210 to 120 days), zoning by-law amendments (150 to 90 days), and draft plans of subdivision (180 to 120 days)
Appeals	Re-introduction of de novo hearings where new information can be introduced at a hearing (OMB process prior to LPAT process from Bill 139)
	Grounds for appeal no longer limited to failure to conform with provincial plans, policy statements or official plans
	No appeal of official plan policies that establish a community planning permit system when the Minister issues an order
	Restricts who can appeal a non-decision to the applicant, municipality and/or public body

Proposed Regulations Related to Bill 108

- June 21, 2019 Province released proposed Regulations related to Bill 108, with condensed commenting timelines
- Proposed regulations intended to support and bring clarity to the amended Acts
- The Province has indicated intent is to maintain municipal revenue levels

ERO 019 -0181 (Planning Act) Aug.6 Comment Deadline	19-MAG007 (Local Planning Appeal Tribunal Act) Aug.5 Comment Deadline	ERO 019-019-0183 (Planning Act) Aug.21 Comment Deadline	ERO 019-0184 (Development Charges Act) Aug.21 Comment Deadline
<ul style="list-style-type: none"> -Transition for Appeals -Community Planning Permit System -Additional Residential Units -Housekeeping Regulatory Changes 	<ul style="list-style-type: none"> -Transition for Appeals 	<ul style="list-style-type: none"> -Community Benefits Authority 	<ul style="list-style-type: none"> -Transition Matters -Development Charges (DC) Deferral Period for DC Freeze -Interest Rate During Deferral and Freeze of DCs -Additional Dwelling Units

Purpose of Regulations

- Regulations are created under the authority of an Act (e.g. *Planning Act*)
- Regulations are instructions to implement, interpret, and administer an Act
 - Example: *Planning Act* notes a public meeting is required for an application. Ontario Regulation 543/06 notes who must be informed of the public meeting.
- Regulations are passed by the Executive Council (Premier and Cabinet Ministers)
- Other examples of Executive Council functions:
 - Set up and appoint people to agencies and boards
 - Appoint certain senior public officials
 - Assign legal responsibilities to ministers

Proposed Regulations – Planning Act and Local Planning Tribunal Act

Proposed Regulation	Staff Comments	Recommendation
<p>Transition of Appeals –</p> <ul style="list-style-type: none">• <u>Pre-Bill 139 appeal</u>: If hearing scheduled, proceed under OMB rules pre-Bill 139• <u>Appeal prior to Bill 108 coming into force</u>: If hearing scheduled, Bill 139 rules apply and if hearing not scheduled, Bill 108 applies• <u>Appeal once Bill 108 in force</u>: appeal proceeds under Bill 108 rules	<ul style="list-style-type: none">• The City expends considerable resources to file materials for a first hearing once LPAT determines an appeal is valid• Transition period should be moved to earlier in process at time of validation <div><div><div>Appeal Filed</div><div>Validation of Appeal</div><div>Case Management Conference</div><div>1st Hearing</div></div><div><ul style="list-style-type: none">• Issued by Tribunal• Requires Parties to file Appeal Record and Case Synopsis<ul style="list-style-type: none">• Determine issues for hearing• Set date for hearing</div></div>	1



Proposed Regulations – Planning Act (Continued)

Proposed Regulation	Staff Comments	Recommendation
Community Planning Permits – <ul style="list-style-type: none">Remove ability to appeal the implementing by-law when the Minister issues an order to require a municipality to establish a community planning permit system	<ul style="list-style-type: none">Appeals should be permitted for cases where the Minister's order may not be consistent with municipal official plans or land use objectives	2



Proposed Regulations – Planning Act (Continued)

Proposed Regulation	Staff Comments	Recommendation
<p>Additional Residential Units –</p> <ul style="list-style-type: none">Removing barriers to establishing additional residential units – parking, permitted even if property owner not occupant of the primary unit, and where permitted in zoning by-law would be permitted regardless of date of construction	<ul style="list-style-type: none">Majority of proposed requirements and standards to remove barriers are consistent with Markham's current zoning approachStaff interprets proposed regulations as maintaining authority of the City to continue to regulate where additional units are permitted	3



Proposed Regulations – Planning Act (Continued)

Proposed Regulation	Staff Comments	Recommendation
<p>Housekeeping and Regulatory Changes –</p> <ul style="list-style-type: none">• Remove redundant notice of subdivision application from Regulation• Remove notice requirements for non-decision appeals from Regulation• Remove restrictions and prohibitions in respect of previous section 37 (increased density)	<ul style="list-style-type: none">• Staff have no comments since the proposed Regulations reflect amendments already made though enacted Bill 108	<p>No Recommendation</p>

Proposed Regulations – Development Charges Act

Proposed Regulation	Staff Comments	Recommendation
<i>Transition</i> - Legislative provisions for CBC in force on January 1, 2020 with municipalities to transition to CBC by January 1, 2021	<ul style="list-style-type: none"> Staff support timelines and have retained a consultant 	5
<i>Defer DCs until occupancy in the following developments</i> - rental housing, non-profit housing, institutional/ industrial/commercial development	<ul style="list-style-type: none"> Deferral should be secured to ensure collection of amounts due Retail developments should be excluded from deferral (included in commercial definition) 	6, 7, 8
<i>Period for Development Charge Freeze</i> - DC crystallized at application for site plan or zoning amendment. Frozen until two years from date of site plan or zoning approval	<ul style="list-style-type: none"> DC rates should be frozen at complete application to prevent placeholder applications Major revisions should result in rate “re-set” 	9, 10

Proposed Regulations – Development Charges Act (Continued)

Proposed Regulation	Staff Comments	Recommendation
<i>Interest Rate During Freeze and Deferral</i> - Interest can be applied from date application is received to date DC is payable; no prescribed maximum interest rate	<ul style="list-style-type: none"> Staff support the proposal to not institute an interest rate cap 	11
<i>Additional Dwelling Units –</i> <ul style="list-style-type: none"> Exemption for a secondary dwelling unit in new detached, semi-detached and row dwellings Exemption for units created in ancillary structures Exemption for the creation of additional units comprising 1% of existing units, in existing residential buildings 	<ul style="list-style-type: none"> Staff have concerns that attempts may be made to classify multi-plexes and stacked townhouses as main units with secondary units to evade DCs The regulations should clearly differentiate secondary dwellings from multi-unit buildings such as stacked townhouses and multi-plexes 	12

Proposed Regulations – Community Benefits Charge

Proposed Regulation	Staff Comments	Recommendation
<i>Transition</i> - Legislative provisions for the CBC in force on January 1, 2020 with municipalities to transition to CBC by January 1, 2021	<ul style="list-style-type: none"> Staff support timelines and have retained a consultant 	5
<i>Reporting on Community Benefits</i> - Includes opening/closing balances, description of services funded, amount of money borrowed and accrued interest	<ul style="list-style-type: none"> Staff support the reporting requirements as proposed 	13
<i>Reporting on Parkland</i> - Includes opening/closing balances, description of land & machinery acquired, amount of money borrowed and accrued interest	<ul style="list-style-type: none"> Staff support the reporting requirements as proposed 	14

Proposed Regulations – Community Benefits Charge (Continued)

Proposed Regulation	Staff Comments	Recommendation
<i>Exemptions from Community Benefits</i> - Includes long-term care/retirement homes, hospices, non-profit housing, colleges/universities	<ul style="list-style-type: none"> • Staff support exemptions if they apply to non-profits only • Expectation is that “soft services” will be provided for exempted development • No contribution to services from exempted developments 	15
<i>Appraisals for Community Benefits</i> - Valuation of site due on day before building permit issuance	<ul style="list-style-type: none"> • Appraisal process as proposed will add administrative time and cost • Additional cost should be recoverable through a fee 	20
<i>Exclusions from Community Benefits</i> - Similar to DCs. Includes Cultural or entertainment facilities, tourism facilities, hospitals, general administration of municipalities	<ul style="list-style-type: none"> • Staff support the list of exclusions 	21

Proposed Regulations – Community Benefits Charge (Continued)

Proposed Regulation	Staff Comments	Recommendation
<i>Community Planning Permit System</i> - No CBC by-law will be available in an area where the Community Planning System is in effect	<ul style="list-style-type: none">• Municipalities should be allowed to levy CBC in a CPP area without a cap• Municipalities should be allowed to enter into agreements with multiple landowners to provide community services	22, 23

Community Benefits Charge

Markham's current charges:

Residential	Singles/Semis	Townhouses	Apartments/ Condos
Total Remaining Soft DCs	\$14,816	\$11,331	\$7,699
Section 37¹	\$1,400	\$1,100	\$2,600
Parkland (Low to Mid- Density) ²	\$33,333	\$33,333	
Cash-in-Lieu (High Density) ³			\$50,000
Total Current Revenues	\$49,549	\$45,764	\$60,299

1) Section 37 includes funds collected for Public Art for all residential development and density bonusing for apartments/condos

2) Assumes low density developments fulfil their parkland requirements through land dedication at a rate of 1 ha/300 units (maximum allowed under the Planning Act) at an average land value throughout the City of \$10M per hectare

3) Assumes high density developments fulfil their parkland requirements through cash-in-lieu at a rate of 1 ha/500 units (maximum allowed under the Planning Act) at an average land value throughout the City of \$25M per hectare



Community Benefits Charge

Revenue Neutrality:

Development Type	Estimated Land value/ha	Units/ha	% of Land Value Required for Revenue Neutrality
Singles/Semis	\$10M	25-30	16%
Townhouses	\$10M	40-50	24%
Apartments/Condos	\$25M	300-350*	45%

} AVG = 20%

Proposed Regulations – Community Benefits Charge (Continued)

Proposal	Staff Comments	Recommendation
<p><i>CBC Formula</i> - That a range of percentages will be prescribed to take into account varying values of land.</p> <p>Provincial goals:</p> <ul style="list-style-type: none"> To ensure that municipal revenues historically collected from development charges for “soft services”, parkland dedication including the alternative rate, and density bonusing are maintained To make costs of development more predictable 	<ul style="list-style-type: none"> Staff support concept of revenue neutrality CBC cap should not be tied solely to land value Province should allow for a wide range of percentage caps based on building type and geographic location 	16, 17, 18, 19

Next Steps

- Submit comments on proposed Regulations before the following commenting deadlines:
 - August 5, 2019 (*LPAT Act*)
 - August 6, 2019 (*Planning Act*)
 - August 21 (Community Benefits Authority under the *Planning Act* and *Development Charges Act*)
- Provincial consultation on the Community Benefits Charge formula in late Summer/Fall 2019
- Staff working to address Province's proposal to transition to Community Benefits Authority for January 1, 2021 deadline