Proposed new regulation pertaining to the community benefits authority under the Planning Act

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Notice stage Proposal
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Proposal summary
A proposal to make a new regulation under the Planning Act to prescribe matters related to the community benefits authority and make a consequential amendment to an existing regulation under the Act.

Proposal details
The More Homes, More Choice Act, 2019 received Royal Assent on June 6, 2019. Schedule 12 of the Act would, upon proclamation, make amendments to the Planning Act to provide the authority for municipalities to charge for community benefits in order to fund a range of capital infrastructure for community services that would benefit new development.

There are provisions in Schedule 12 that require additional details to be prescribed by regulation. The following are matters that the province is proposing to prescribe in regulation.

Regulatory changes
1. Transition
The amendments to the Planning Act in Schedule 12 of the More Homes, More Choice Act, 2019 provide transitional provisions for section 37, and section 42 under the Planning Act, and development charges for discounted services (soft services) under the Development Charges Act to provide the flexibility necessary for municipalities to migrate to the community benefits charge authority.
An amendment to the \textit{Development Charges Act, 1997} provides for a date to be prescribed in regulation that would effectively establish a deadline as to when municipalities must transition to the community benefits authority if they wish to collect for the capital costs of community benefits from new development. Beyond the date prescribed in regulation:

- Municipalities would generally no longer be able to collect development charges for discounted services
- Municipalities would generally no longer be able to pass by-laws to collect funds under section 37 of the \textit{Planning Act}

\textbf{Proposed content}

It is proposed that the specified date for municipalities to transition to community benefits is January 1, 2021.

\textbf{2. Reporting on community benefits}

The amendments to the \textit{Planning Act} in Schedule 12 of the \textit{More Homes, More Choice Act, 2019} provide for municipalities that pass a community benefits by-law to provide the reports and information that may be prescribed in the regulation to persons prescribed in regulation.

\textbf{Proposed content}

In order to ensure that community benefit charges are collected and spent on community benefits in a transparent manner, and for greater accountability, the Minister is proposing to prescribe reporting requirements that are similar to existing reporting requirements for development charges and parkland under section 42 of the \textit{Planning Act}.

Municipalities would be required annually to prepare a report for the preceding year that would provide information about the amounts in the community benefits charge special account, such as:

- Opening and closing balances of the special account
- A description of the services funded through the special account
- Details on amounts allocated during the year
- The amount of any money borrowed from the special account, and the purpose for which it was borrowed
- The amount of interest accrued on money borrowed

\textbf{3. Reporting on parkland}

The amendments to the \textit{Planning Act} in Schedule 12 of the \textit{More Homes, More Choice Act, 2019} provide that municipalities may continue using the current basic parkland provisions of the \textit{Planning Act} if they are not collecting community benefits charges. Municipalities with parkland special accounts will be required to provide the reports and information that may be prescribed in the regulation to persons prescribed in regulation.

\textbf{Proposed content}

In order to ensure that cash-in-lieu of parkland is collected and used in a transparent manner, the Minister is proposing to prescribe reporting requirements for parkland.

Municipalities would be required annually to prepare a report for the preceding year that would provide information about the amounts in the special account, such as:
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- Opening and closing balances of the special account
- A description of land and machinery acquired with funds from the special account
- Details on amounts allocated during the year
- The amount of any money borrowed from the special account, and the purpose for which it was borrowed
- The amount of interest accrued on money borrowed

4. Exemptions from community benefits

To help reduce the costs to build certain types of development that are in high demand, amendments to the Planning Act in Schedule 12 of the More Homes, More Choice Act, 2019 provides for the Minister to prescribe such types of development or redevelopment in respect of which a community benefits charge cannot be imposed.

Proposed content

The Minister is proposing that the following types of developments be exempt from charges for community benefits under the Planning Act:

- Long-term care homes
- Retirement homes
- Universities and colleges
- Memorial homes, clubhouses or athletic grounds of the Royal Canadian Legion
- Hospices
- Non-profit housing

5. Community benefits formula

The amendments to the Planning Act in Schedule 12 of the More Homes, More Choice Act, 2019, provide the authority for municipalities to charge for community benefits at their discretion, to fund a range of capital infrastructure for community services needed because of new development.

This capital infrastructure for community services could include libraries, parkland, daycare facilities, and recreation facilities.

For any particular development, the community benefits charge payable could not exceed the amount determined by a formula involving the application of a prescribed percentage to the value of the development land. The value of land that is used is the value on the day before the building permit is issued to account for the necessary zoning to accommodate the development.

Proposed content

It is proposed that a range of percentages will be prescribed to take into account varying values of land.

In determining the prescribed percentages, there are two goals.

- Firstly, to ensure that municipal revenues historically collected from development charges for “soft services”, parkland dedication including the alternative rate, and density bonusing are maintained.
- Secondly, to make costs of development more predictable.
This Ministry is not providing prescribed percentages at this time. However, the Ministry would welcome feedback related to the determination of these percentages. There will be further consultation on the proposed formula in late summer.

6. Appraisals for community benefits

The authority to charge for community benefits under the Planning Act would enable municipalities, at their discretion, to fund a range of capital infrastructure for community services needed because of new development.

For any particular development, the community benefits charge payable could not exceed an amount determined by a formula involving the application of a prescribed percentage to the value of the development land on the day before the building permit is issued.

The amendments to the Planning Act in Schedule 12 of the More Homes, More Choice Act, 2019 provide for the owner of land proposing to develop a site, to provide the municipality with an appraisal of the site they are of the view that the community benefits charge exceeds what is legislatively permitted. Similarly, a municipality can also provide the owner of land with an appraisal if it is of the view that the owner of the land's appraisal is inaccurate. If both appraisals differ by more than 5 percent, a third appraisal is prepared.

Proposed content

The Minister is proposing the following:

- If the owner of land is of the view that the amount of a community benefits charge exceeds the amount legislatively permitted and pays the charge under protest, the owner has 30 days to provide the municipality with an appraisal of the value of land.
- If the municipality disputes the value of the land in the appraisal provided by the owner, the municipality has 45 days to provide the owner with an appraisal of the value of the land.
- If the municipality's appraisal differs by more than 5 percent from appraisal provided by the owner of the land, the owner can select an appraiser from the municipal list of appraisers, that appraiser's appraisal must be provided within 60 days.

7. Excluded services for community benefits

Amendments to the Planning Act in Schedule 12 of the More Homes, More Choice Act, 2019 provide that community benefits charges cannot be imposed for facilities, services or matters associated with services eligible for collection under the Development Charges Act, 1997. It also provides for the province to prescribe facilities, services or matters in respect of which community benefit charges cannot be imposed.

Proposed content

The Minister is proposing to prescribe that the following facilities, services or matters be excluded from community benefits:

- Cultural or entertainment facilities
- Tourism facilities
- Hospitals
- Landfill sites and services
- Facilities for the thermal treatment of waste
- Headquarters for the general administration of municipalities and local boards
This would be consistent with the ineligible services list currently found under the Development Charges Act.

8. Community planning permit system

The community planning permit system is a framework that combines and replaces the individual zoning, site plan and minor variance processes in an identified area with a single application and approval process. O. Reg. (Ontario Regulation) 173/16 “Community Planning Permits” outlines the various components that make up the system, including the matters that must be included in the official plan to establish the system, the process that applies to establishing the implementing by-law and the matters that must or may be included in the by-law.

Proposed content

Amendments to the Planning Act in the More Homes, More Choice Act, 2019 establish a new authority for municipalities to levy charges for community benefits to make requirements in this regard more predictable. As the community planning permit system also allows conditions requiring the provision of specified community facilities or services, it is proposed that a community benefits charge by-law would not be available for use in areas within a municipality where a community planning permit system is in effect.

In considering making a proposed new regulation and charges to existing regulations under the Planning Act, the government will continue to safeguard Ontarians' health and safety, support a vibrant agricultural sector, and protect environmentally and culturally sensitive areas, including the Greenbelt.

Supporting materials

Related links

Planning Act (https://www.ontario.ca/laws/statute/90p13)

Development Charges Act (https://www.ontario.ca/laws/statute/97d27)


View materials in person

Some supporting materials may not be available online. If this is the case, you can request to view the materials in person.

Get in touch with the office listed below to find out if materials are available.

Municipal Finance Policy Branch
Municipal Affairs and Housing
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