

Proposed Regulatory Matters Pertaining to Community Benefits Authority Under the *Planning Act*, the *Development Charges Act*, and the *Building Code Act*

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By Denise Baker,

The Ministry has released the regulatory proposal on the proposed components of a new community benefits charge authority for public comment. There is a 31-day consultation period on the proposed framework and all feedback and submissions are due **March 30, 2020**. Key components of a new community benefits charge are as follows:

1. Required content of a community benefits charge strategy: Before passing a community benefits charge by-law, a municipality must prepare a community benefits charge strategy. The strategy must identify the items that a municipality intends to fund through community benefits charge and comply with requirement that may be prescribed in regulation regarding the content that a strategy should assess. The proposal sets out some requirements for the strategy including the anticipated type of development that will be subject to a CBC, the increase in need for community services resulting from new development, a parks plan, a parkland per person analysis, capital costs associated with the increased need for community services, excess or available capacity, any benefit to existing residents, and any available capital grants, subsidies or contributions from other levels of government or other sources.

2. Services eligible to be funded through Development Charges: Certain services are proposed to be identified under the Development Charges Act to be eligible for **full-cost recovery** through the collection of development charges and is no longer subject to the current 10% discounts and not through a CBC. This includes public libraries, long-term care, parks development, public health, and recreation.

3. Percentage of land value for determining a maximum community benefits charge: The proposed percentages of land value that would be prescribed in regulation under the Planning Act would be structured as follows:

Single-tier municipality – 15%

Lower-tier municipalities – 10%

Upper-tier municipalities – 5%

The land value would be calculated as of the valuation date, which is the day before the date the building permit is issued in respect of the development or redevelopment.

4. Timeline to transition to the new community benefits charge regime: It is proposed that the specified date for municipalities to transition to the community benefits charges regime would be **one year after the date the proposed CBC regulation comes into effect**.

5. Notice of a Community benefits charge by-law: A municipality would be required to provide notice to the public when it passes a CBC by-law. Since a municipality's CBC by-law can be appealed to the Local Planning Appeal Tribunal, to implement the appeal mechanism, it is proposed that a municipality would be required to comply with a set of notice provisions similar to the notice provisions found under the Development Charges Act when a new DC by-law is passed.

6. Minimum interest rate for community benefits charge refunds: The mechanism to appeal a CBC by-law includes a requirement for municipalities to provide full or partial refunds in the event of a successful appeal. The interest rate paid on amounts refunded must not be less than the prescribed minimum interest rate which would be the Bank of Canada rate on the date the by-law comes into force.

7. Building code applicable law: It is proposed that the Building Code be amended to add the community benefits charge authority to the list of items under Division A – Article 1.4.1.3 Definition of Applicable Law. This amendment would establish a mechanism for ensuring the payment of community benefits charges prior to the issuance of a building permit.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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