



# Staff Report

## Planning and Development Services

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**Report To:** Council  
**Meeting Date:** July 15, 2019  
**Report Number:** PDS.19.89  
**Subject:** Proposed Regulations to Bill 108  
**Prepared by:** Shawn Postma, Senior Policy Planner

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### A. Recommendations

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THAT Council receive Staff Report PDS.19.89, entitled “Proposed Regulations to Bill 108”;

AND THAT Council direct Staff to provide comments on the Proposed Regulations to Bill 108 substantially in the form as outlined in Staff Report PDS.19.89;

AND THAT Council direct Staff to request the draft regulations from the Province for review;

AND THAT Council direct Staff to request an extension to the August 6 and August 21 deadlines in order to provide a more fulsome review of the final version of the regulations associated with Bill 108;

### B. Overview

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The purpose of this report is to provide a summary of the proposed regulations to implement Bill 108 and to provide municipal comments on the regulations back to the Province.

### C. Background

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Bill 108 (More Homes, More Choice: Ontario’s Housing Supply Action Plan) received Royal Assent on June 6, 2019 and is awaiting proclamation. Bill 108 provides sweeping changes to 13 different acts with the intent of increasing the supply of housing and housing affordability and help streamline development approvals. Municipalities have been on hold anticipating the regulations and transitional provisions to be released related to Bill 108. A summary of the proposed regulations affecting the Planning Act (Schedule 12) have been released by the Province that provides a high level overview of the proposed regulations, but the actual regulations have not yet been released. A second proposed regulation pertaining to the Community Benefits Charge has also been released.

It is noted that the commenting period on Planning Act regulations is currently open and expires August 6, 2019. The commenting period on Community Benefits Charge regulations is open and expires August 21, 2019.

Full proposal details are available on the Environmental Registry of Ontario website.

## **D. Analysis**

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### **Bill 108 Planning Act (Schedule 12) Regulations**

Actual Planning Act (Schedule 12) Regulations have not yet been released. Only a summary of the regulations have been released. Town Staff has followed up with MMAH regarding the timing of the release but phone calls have not yet been returned at the time of writing of this report. A fulsome review of the regulations will be completed by Town Staff as soon as they are available, however with the commenting period expiring August 6, 2019 there is not ample time to report back to Council with recommendations.

The following details have been provided:

#### **1. Transition Provisions**

Transition regulations sets out the rules as to how the Bill 108 changes will affect planning matters that are in process including how appeals of certain development projects are handled on depending on appeal status or instances where decisions have been made but notice of decision has not yet been provided. Transition provisions related to the reduced decision timelines on applications would apply to all complete applications submitted after Royal Assent (June 6, 2019).

##### **Comment:**

Transition provisions on appealed LPAT matters, and grounds for appeal do not appear to be concern. Transition provisions regarding reduced decision timelines on Planning Applications are as anticipated. Planning Staff note that immediate modifications are required to our Planning Review process to ensure decision timeline requirements can be met. Planning Staff intend to bring a report to Council in the fall with options to meet required decision timelines.

#### **2. Community Planning Permit System**

Community Planning Permits combine individual zoning, minor variance and site plan processes (for identified areas only) into a single application and approvals process. The Minister may require a Municipality to establish policies and By-laws for a Community Planning Permit System. The proposed regulations would remove the ability to appeal the Official Plan and implementing By-law associated with the Community Planning Permits system.

##### **Comment:**

Planning Staff see merit in using the Community Planning Permit System for specific types of development or within specific areas of the Municipality. Limited Staff resources will require a slower phase-in approach, but there may be long-term

efficiencies gained through reduced application processing times. Examples of when/where the Minister may require a Community Planning Permit System would be helpful. Regulations removing the ability for appeals will help to streamline the implementation of a Community Planning Permit system.

### 3. Second Unit Requirements and Standards

Second units are required to be permitted as of right within certain residential unit types. Regulations set out requirements for minimum required parking and occupancy. Parking to be provided in accordance with municipal zoning up to one additional parking space to be provided for the second unit. Occupancy of the second unit cannot require owner occupancy of the primary unit.

Comment:

No concerns. Planning Staff note that the existing Blue Mountains Zoning By-law 2018-65 currently permits second units as of right in all required housing types save and except for row house units. Municipal review of appropriate Zone Standards for second units in row house units has not been completed, but do not appear to differ significantly from existing zone standards. A housekeeping amendment will be required to bring The Blue Mountains Zoning By-law 2018-65 into conformity with the Act.

### 4. Housekeeping Changes

The regulations propose to modify a number of other existing regulations under the Planning Act to ensure consistent requirements among regulations.

Comment:

No concerns.

### 5. Other Comments

No information has been provided regarding regulations for Inclusionary Zoning, LPAT Appeals, Endangered Species, and the Conservation Authorities Act.

## Bill 108 Community Benefits Charge Regulations

Proposed new regulations specifically pertaining to the Community Benefits Charge will provide municipalities with the ability to charge for certain community benefits in order to fund a range of community projects that would also benefit new development. These community projects could include libraries, parkland, daycare facilities and recreation facilities. A Formula is anticipated but not yet available to determine payment amounts based on a percentage of the land value. The province has indicated that a key objective in developing the formula is to enable municipalities to maintain the historical revenues from density bonusing, parkland dedication, and development charges for discounted services under this new charge. A second

Environmental Registry of Ontario posting is expected in the Fall of 2019 with more detailed regulations. To date, the following details have been released:

1. Transition Provisions

The transition from the Development Charges Act and Section 37 (Bonusing) under the Planning Act are to be phased out and that the Community Benefits Charge provisions to be in place by January 1, 2021.

Comment:

Previous Town Council removed the ability to collect Bonusing under Section 37 of the Planning Act in 2016. No requests have been received for increased density in the Town since that time. It is noted that prior to 2016 the Town secured a number of Section 37 Planning Act (Bonusing) payments by way of agreement or Draft Plan Conditions. These projects are currently being built out with a number of Section 37 payments deferred to later stages of project build out. It is recommended that the Minister be advised that the transition provisions need to ensure that any Section 37 payment requirements under existing agreements will carry forward in accordance with the agreement provisions and not eliminated by the transition provisions.

2. Reporting on Community Benefits

Regulations are proposed on required annual reporting methods to ensure transparency and greater accountability. Account Balances, amounts allocated, borrowed, and interest earned to be reported.

Comment:

No concern. Planning Staff support transparency and greater accountability. Additional Staff time will be required for annual reporting requirements.

3. Reporting on Parkland

Similar to reporting on Community Benefits, Municipalities may collect Planning Act Parkland Dedication requirements if not otherwise collecting through the Community Benefits Charges. Regulations are proposed on required annual reporting of cash-in-lieu parkland payments that are collected by the Town. Annual reports are required on opening and closing account balances, lands and machinery acquired, amounts allocated during the year, amounts borrowed, and interest earned.

Comment:

No concern. Planning Staff support transparency and greater accountability. Additional Staff time is required for annual reporting requirements.

4. Exemptions from Community Benefits Charges

To help reduce costs associated with certain types of development, it is proposed that long term care homes, retirement homes, universities/colleges, Royal Canadian Legion

homes/clubhouses/athletic grounds, hospices and non-profit housing will be exempt from Community Benefits Charges.

Comment:

Exemptions from Community Benefits Charges could benefit other types of development that are considered important to a local municipality. It is recommended that Minister be advised that Municipalities could add additional exemptions to the Community Benefits Charge for preferred development forms as determined by Municipal Council and outlined in the Community Benefits By-law.

5. Community Benefits Formula

No formula is provided at this time. The Ministry is requesting feedback to support a future formula that will be released for comment later this fall. The goals of the formula are to maintain previous payment amounts that are collected through Development Charge 'Soft Services', parkland dedication and density bonusing and to provide more predictability on payment amounts.

Comment:

Planning Staff support the certainty that a Community Benefits Formula can create. It is recognized that Section 37 Bonusing has been utilized by the Town in the past for many development projects and that a standard formula was used to determine the value of additional recreational lands/facilities and shoreline dedication to be provided (or cash-in-lieu equivalent). Council will have additional flexibility on where Community Benefits funding can be used and will not be directed to Community Benefits should directly support the community that is providing the benefit. Development projects should be given the opportunity to incorporate or provide the community benefit directly into their project at a value greater or equal to the payment amount and as an alternative to providing cash payment. Further to previous direction and authorization provided through Staff Report PDS.19.59, staff will continue to remain engaged when consultation on the proposed Formula is initiated.

6. Appraisals for Community Benefits

The Community Benefits Charge is based on a percentage of the value of the lands the day before building permits are issued. The timing of the valuation recognizes the value of the development permissions granted to the lands. Appraisals are to be completed to determine the value of the lands. The Ministry is requesting feedback at this time on the appraisal/valuation process. It is currently proposed that if there is disagreement with a completed appraisal, the Municipality or the Owner could complete their own appraisal and in instances where the appraisals differ by more than 5% then a third appraisal will be required.

Comment:

Planning Staff supports the timing of valuation based on the day before building permit. This valuation more accurately incorporates the value of the development permissions

that come with the lands. The Town will need to develop its own internal review and Council approvals process on how appraisals received. Tight timelines of 45 days to decide acceptance of an appraisal are proposed. It appears that the appraisal/valuation process will increase the processing time on development applications in order to confirm the required Community Benefit Charge. Appraisals cannot be completed until near the end of the approvals process when final zoning permissions are in place. An owner can make payment under protest to keep projects moving forward, but depending on the differences in valuation opinions projects could stall depending on the final outcome.

#### 7. Excluded Services for Community Benefits

Community Benefits Charges cannot be imposed on facilities, services, or matters that are eligible for collection under the Development Charges Act. More specifically the following are highlighted for exclusion from Community Benefits: Cultural/Entertainment Facilities, Tourism Facilities, Hospitals, Landfill Sites/Services, facilities for the thermal treatment of waste, headquarters for municipalities/local boards. This list is consistent with the ineligible services found under the Development Charges Act.

Comment:  
No comment

#### 8. Community Planning Permit System

The Community Planning Permit System allows conditions to be added to approvals to also require the provision of specified community facilities or services. Because of this, it is proposed that a Community Benefits Charge would not be available for use in those areas subject to the Community Planning Permit System.

Comment:  
Predictability in the financial requirements of a development project are also important within the Community Planning Permit System areas. Direction should be provided on anticipated bonusing, parkland, development charge conditions that would otherwise be subject to Community Benefits Charge outside of Community Planning Permit System areas. It appears that the required charge would be the same.

## **E. The Blue Mountains Strategic Plan**

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- Goal #3: Support Healthy Lifestyles
- Objective #1 Promote the Town as a Healthy Community
- Objective #2 Increase the Range of Housing Choices and Promote Housing Affordability
- Objective #3 Manage Growth and Promote Smart Growth

## **F. Environmental Impacts**

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New regulations regarding the changes to the Conservation Authorities Act and Endangered Species Act are not yet available.

## **G. Financial Impact**

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New regulations under Bill 108 will likely require much tighter timeframes to process development applications requiring a higher level of service on behalf of the Town. Annual financial reporting times will require additional Staff time. New sources of revenue can be accessed through Community Benefits Charges at an undetermined rate at this time. Revenue is intended to at least match previous revenue streams from Development Charges, Bonusing and Parkland Dedication.

## **H. In consultation with**

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Nathan Westendorp, Director of Planning and Development Services

## **I. Public Engagement**

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The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required. Comments regarding this report should be submitted to Shawn Postma at [planning@thebluemountains.ca](mailto:planning@thebluemountains.ca)

## **J. Attached**

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1. Nil

Respectfully submitted,

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For more information, please contact:

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