



City of
Peterborough

To: **Members of the Joint Services Steering Committee**

From: **Sandra Clancy, CAO and Acting Commissioner of Community Services**

Meeting Date: **September 12, 2019**

Subject: **Report CSSSJSSC19-009
Potential Impacts of Bill 108 on Affordable Housing Development**

Purpose

A report to provide an update on the potential impacts of Bill 108 on affordable housing development.

Recommendation

That the Joint Services Steering Committee endorse the recommendation outlined in Report CSSSJSSC19-009 dated September 12, 2019 of the CAO and Acting Commissioner of Community Services, as follows:

That Report CSSSJSSC19-009 and presentation about the potential impacts of Bill 108 be received for information.

Budget and Financial Implications

There are no budget or financial implications as a result of this report.

Background

Motion from June 13, 2019 Joint Services Steering Committee meeting

This report is in response to the following Joint Services Steering Committee motion on June 13, 2019:

That staff provide a report on the effects of Bill 108 and how it relates to social housing, for the September meeting.

Definition of affordable housing

In this report, the term affordable housing is defined by the presence of two factors that must be considered together. Firstly, the housing has rents or purchase prices that are below average according to the Canada Mortgage and Housing Corporation (CMHC). Secondly, the housing is rented or sold to households with low and moderate incomes according to Census data.

Timeline

On June 6, 2019 Ontario Bill 108, the “More Homes, More Choice Act” (the Act), received Royal Assent. A number of regulatory changes will be necessary to implement the Act. On June 21, 2019, the province released proposed regulations related to charges under the **Development Charges Act** and the **Planning Act**.

Potential Impacts - General

Many of the changes under the Act will have an impact beyond affordable housing. For example, reduced timelines for decisions has the potential to speed up approvals for affordable housing development as well as other forms of development. Reduced timelines for allowing appeals if no decision is made by the approval authority are as follows:

- Official Plans review lowered from 210 to 120 days;
- Zoning By-laws review lowered from 150 to 90 days; and
- Plans of Subdivision review lowered from 180 to 120 days.

As well, changes to the Local Planning Appeal Tribunal (LPAT) will mean that the LPAT’s processes will be almost identical to the Ontario Municipal Board (OMB) processes. This includes eliminating the current two-stage appeal process, meaning the LPAT would have the power to make a final determination approving, refusing to approve or modifying all or part of the instrument under appeal.

It also includes allowing more grounds for an appeal. Bill 108 proposes to repeal the requirement that appeals be exclusively on the basis that approval of the instrument is inconsistent with the Provincial Policy Statement, fails to conform or conflicts with a provincial plan or fails to conform with an Official Plan. Appellants can still raise these grounds of appeal, but would no longer be limited to just those grounds.

Potential Impacts – Affordable Housing

More specifically for affordable housing, the Act has the potential to impact development in three key areas – Development Charges, Inclusionary Zoning and Secondary Suites:

The impacts of these three areas are outlined in more detail, below:

1. Development Charges

Key changes to the **Development Charges Act** are included in proposed regulations. These changes would freeze and defer these charges for specific types of residential development. In general, Development Charges would be charged at the rate in effect on the date of the application for Zoning By-law Amendment or Site Plan Approval. This freezes the charge at an earlier stage of development: ordinarily Development Charges are collected at the time of Building Permit issuance.

For non-profit housing development and other rental housing development there are further changes proposed to the Development Charge amount and how it is collected. Rental housing developed by a non-profit organization would have Development Charges frozen at the amount in effect at application for Zoning By-law Amendment or Site Plan Approval, and payable over 20 years in annual instalments. Annual payments would commence at either the date of the occupancy permit, or occupancy of the building, whichever is earliest. Rental Housing developed by private for-profit developers would follow the same process – except the charge would be payable over 5 years in annual instalments. A concern with these changes is how collection will be impacted if properties are sold during this time or changes are made to the developer's business i.e. sold or bankruptcy. A legal document will need to be developed and registered on title of each property to ensure collection of the charge if there is a change in ownership.

Non-profits and private, for-profit developers each have an important role to play in the development of affordable/below market rental housing in the City and County of Peterborough. Both types of development will potentially be impacted by the proposed regulatory changes. Deferred payment for Development Charges would reduce the upfront costs associated with rental housing development.

At this time, staff have identified a possible unintended consequence of freezing Development Charges at the Zoning By-law Amendment or Site Plan stage. There is the potential that some developers would complete those applications to freeze the Development Charge rate. With the Development Charge paid, there may be less

incentive to proceed to development. This could delay the timing of construction, which runs counter to the intention of the Act, which is to increase housing supply. This type of delay would be less likely to occur in projects receiving funding under federal and federal-provincial housing programs, since there are prescribed milestones and mandatory timeframes associated with these programs.

Development Charges revenue provides funding for the development of affordable housing. However, under the proposed regulations housing services and other “soft services” would no longer be considered eligible costs that can be funded by the collection of Development Charges. Proposed amendments would allow municipalities to impose Community Benefits Charges, a mechanism under the Planning Act. The Province has indicated that the Community Benefits Charge will replace the revenue that municipalities would have recovered from Development Charges. It is unclear at this time how the change to a Community Benefits Charge would impact this budget line.

2. Inclusionary Zoning

Schedule 12 of the Act amends the **Planning Act** to limit the areas in which an Inclusionary Zoning By-law may be imposed. Inclusionary Zoning is a mechanism that has the potential to enhance the development of affordable housing by requiring a percentage of units in any new development to meet the definition of affordable under Official Plans. This amendment limits Inclusionary Zoning to areas around major transit stations. The Growth Plan for the Greater Golden Horseshoe identifies major transit station areas as a 500-metre radius around existing or planned higher-order transit, including subway, GO Regional Express Rail, Light Rail Transit and Bus Rapid Transit.

Since no major transit station areas currently exist in the City and County of Peterborough, Inclusionary Zoning By-laws may not be imposed. While Inclusionary Zoning was not a policy that was in place, this amendment removes a municipal tool that had the potential to encourage the development of affordable housing around major transit station areas. Inclusionary Zoning is separate from the required Affordable Housing Target the City must set for its residential inventory.

It is anticipated that the final City Official Plan will permit the City to pass a By-law for inclusionary zoning subject to applicable legislation being in effect. With this in place, if the limitation is removed in the legislation in the future, the City will have the means to use it as a tool.

3. Secondary Suites

Changes to the **Planning Act** include how many secondary suites can be built, how parking can be provided, and removes restrictions that some municipal secondary suites by-laws may have included.

Currently, the **Planning Act** allows second units (secondary suites) in single detached houses, semi-detached houses and rowhouses, and in an ancillary building, if there is

only one unit in the main dwelling, i.e. a total of two units on one lot. Amendments to the Planning Act under the More Homes, More Choice Act would allow owners to create an additional residential unit within their main residence, and another residential unit in a building or structure on the same property that is ancillary to the primary building, such as above garages or in laneways.

Proposed regulatory amendments would remove restrictions so that secondary suites by-laws could not limit where secondary suites can be constructed by the construction date of the primary or ancillary building. The proposed amendments also clarify that secondary suites by-laws cannot require that the primary building is owner-occupied. Additional parking spaces may be provided through tandem parking. Tandem parking is defined as “a parking space that is only accessed by passing through another parking space from a street, lane or driveway”.

Proposed regulatory amendments to the **Development Charges Act** would expand exemptions for secondary suites. City development charges are currently imposed when a secondary suite is built in an ancillary building (not within the primary residence) and within new construction. The proposed amendments would exempt secondary suites in ancillary buildings from Development Charges. They would also exempt secondary suites created in new homes, both within the primary unit or as an ancillary building.

Staff support the changes to secondary suites regulations as the changes will allow more units to be built within existing neighbourhoods. As well, exemptions from Development Charges may encourage more homeowners to develop secondary suites in their homes or on their property. This would contribute to increased density and has the potential to create more affordable housing options for low and moderate income households.

Summary

The implementation of the More Homes, More Choice Act will require that proposed regulations are passed and come into effect. It is unclear at this time what the full effect of the transition from Development Charges to Community Benefit Charges will be for supporting the development of affordable housing. It is not possible to measure the impact of the loss of Inclusionary Zoning as a tool, as it is not currently being utilized in the City and County of Peterborough. The ability to add more secondary suites to existing properties, combined with exemptions from Development Charges for these units may expand the uptake of secondary suites – both in new developments and existing homes.

Submitted by,

Sandra Clancy
CAO and Acting Commissioner, Community Services

Contact Name:
Rebecca Morgan Quin
Manager of Housing Services
Social Services Division, Community Services Department
Phone: 705-742-7777 Ext. 1501
Toll Free: 1-855-738-3755 Ext. 1501
Fax: 705-742-5218
E-Mail: RMorgan-Quin@peterborough.ca