



**City of Kingston
Information Report to Council
Report Number 20-216**

To: Mayor and Members of Council
From: Paige Agnew, Commissioner, Community Services
Resource Staff: Jenna Morley, Associate Legal Counsel, Legal Services
Date of Meeting: October 6, 2020
Subject: Bill 197: *COVID-19 Economic Recovery Act, 2020*

Council Strategic Plan Alignment:

Theme: Corporate business

Goal: See above

Executive Summary:

The purpose of this report is to provide Council with information with respect to Bill 197, *COVID-19 Economic Recovery Act, 2020*, which was enacted on July 21, 2020 ("Bill 197"). Bill 197 is an omnibus bill that amends over 20 provincial statutes. It is intended to jumpstart economic growth in the wake of Covid-19 by simplifying regulatory practices and allowing projects to move from conception to completion faster. This report summarizes the amendments made to the *Planning Act* and the *Development Charges Act* under Bill 197. The key changes came into effect on September 18, 2020 and provide for a 2-year transition period for municipalities to implement changes as required.

Recommendation:

This report is for information only.

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Authorizing Signatures:

**Paige Agnew, Commissioner,
Community Services**

**Lanie Hurdle, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Peter Huigenbos, Commissioner, Business, Environment & Projects	Not required
Brad Joyce, Commissioner, Corporate Services	
Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Sheila Kidd, Commissioner, Transportation & Public Works	Not required

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Options/Discussion:

Bill 197, *COVID-19 Economic Recovery Act, 2020* (“Bill 197”), was enacted on July 21, 2020. Bill 197 is an omnibus bill that amends over 20 provincial statutes and is intended to jumpstart economic growth in the wake of Covid-19 by simplifying regulatory practices and allowing projects to move from conception to completion faster.

The amendments to the *Planning Act* and the *Development Charges Act* are generally intended to reverse certain proposed changes under Bill 108, *More Homes, More Choice Act* (“Bill 108”), related to the Community Benefits charges, parkland dedication, and development charges.

Planning Act Amendments**1. Community Benefits Charge**

Under Bill 108, a Community Benefits charge was intended to replace certain development charges, parkland dedication requirements and height/density bonuses under Section 37 of the *Planning Act*. In response to public consultation, Bill 197 narrows the scope of the Community Benefits charge by removing development charges and parkland dedication.

The Community Benefits charge will still replace the current height and density provisions set out in Section 37 of the *Planning Act*. A Community Benefits charge by-law can (but is no longer required to) include parkland dedication amounts, as well as the capital costs associated with development charge-eligible items, but the municipality cannot “double dip”. In other words, costs can only be collected through one mechanism.

The following terms and conditions apply with respect to the new Section 37 Community Benefits charge:

- A Community Benefits charge strategy and consultation prepared in accordance with Ontario Regulation 509/20, Community Benefits Charges and Parkland (“O. Reg. 509/20”), are required prior to enacting a by-law to impose a Community Benefits charge.
- A Community Benefits charge does **not** apply to developments that are less than five storeys or under 10 units, to any redevelopment that adds less than 10 units to an existing building, or to other prescribed types of development listed in O. Reg. 509/20, including long-term care homes, retirement homes, specified uses by post-secondary institutions, etc.
- The amount of the Community Benefits charge cannot exceed 4% of the value of the land as of the valuation date (being the day before the first (or only) building permit is issued in respect of the development or redevelopment).
- In-kind contributions are permitted for facilities or services in a Community Benefits charge by-law and the value of those services will be deducted from what is owed.

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- A Community Benefits charge by-law can be appealed to the LPAT and an owner may pay a community benefits charge under protest if the owner believes the maximum percentage has been exceeded.

The new Section 37 provisions came into effect on September 18, 2020; however, the existing Section 37 provisions of the *Planning Act* related to height/density bonusing will remain in effect until September 18, 2022, or until the municipality enacts a Community Benefits charge by-law, whichever is earlier. Staff will be reviewing the changes to the Community Benefits changed by Bill 197 against the existing Official Plan policies and Community Benefit Draft Guidelines and reporting back to the Committee on a future date.

2. Parkland Dedication

Under the proposed changes in Bill 108, parkland dedication amounts were intended to be rolled into the new Community Benefits charge. Under Bill 197, parkland dedication has been removed from the Community Benefits charge and the existing parkland provisions (including basic parkland dedication and alternative parkland rates) will be maintained.

Bill 197 also introduces new procedural provisions related to alternative parkland rate by-laws and allows these by-laws to be appealed to the LPAT. On appeal, the LPAT can order an amendment to the use of the alternative parkland rate. While existing parkland dedication by-laws cannot be appealed, Bill 197 states that any existing parkland dedication by-law that contains alternative rates will expire on September 18, 2022 (unless repealed sooner). This means that the City will need to pass a new alternative parkland rate by-law, which would be open to appeal to the LPAT.

3. New Ministerial Powers

Currently, under Section 47 of the *Planning Act*, the Minister of Municipal Affairs and Housing may make orders exercising zoning powers. Under Bill 197, the Minister's powers have been expanded to include:

- The addition of Site Plan Control powers and the authority to confirm that Site Plan Control does not apply to specified land;
- Powers over inclusionary zoning, including the ability to require the inclusion of affordable housing units in a specified development; and
- The ability to require applicants to enter into agreements with the municipality respecting specified matters related to development and conditions required for the approval of plans and drawings in a Site Plan Control area.

Under these enhanced order-making powers, the Province will have a greater ability to overturn municipal land use planning decisions, including with respect to Site Plan Control applications.

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Development Charges Act Amendments

Under Bill 108, the Province intended to remove soft services from development charges and to fund them through a Community Benefits charge instead. Under Bill 197, the Province is reverting the funding of most soft services back into development charges.

Bill 197 expands the list of eligible services to include most of the soft services that municipalities typically fund through development charges, including:

- services related to long-term care;
- parks and recreation services, except for the acquisition of parkland;
- services related to public health;
- childcare and early years programs and services;
- housing services;
- services related to provincial offence proceedings, including by-law enforcement services and municipally administered court services;
- services related to emergency preparedness; and
- other services prescribed by regulation.

While Bill 197 reverses many of the proposed changes to development charges under Bill 108, it does not reinstate the requirement that the capital cost of these services be reduced by 10%, which was removed from the *Development Charges Act* under Bill 108. As such, development charges for these services will typically increase by 10%.

The amendments to the *Development Charges Act* came into effect on September 18, 2020.

Staff will continue to monitor the impacts of Bill 197 and report back to Planning Committee, as necessary.

Existing Policy/By-Law:

Planning Act, R.S.O. 1990, c. P.13

Development Charges Act, 1997, S.O. 1997, c. 27

City of Kingston Official Plan

By-Law Number 2014-135, "A By-Law to Establish Development Charges for the City of Kingston"

By-Law Number 2009-138, "A By-Law to Impose Water Rates and Sewer Rates to Recover the Capital Cost of Installing Water and Sanitary Sewer Services Necessary to Benefit Users of the System"

By-Law Number 2013-107, "A By-Law to Provide for the Conveyance of Land for Park Purposes, or Cash-In-Lieu of Parkland Conveyance"

Notice Provisions:

None

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Accessibility Considerations:

None

Financial Considerations:

None

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Other City of Kingston Staff Consulted:

None

Exhibits Attached:

None