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April 29, 2026

RE: MFOA's Response to Bill 98, *Building Homes and Improving Transportation Infrastructure Act, 2026*

I am writing on behalf of the Municipal Finance Officers' Association of Ontario (MFOA) and the municipalities it serves to provide comments on proposed amendments under Bill 98 (*Building Homes and Improving Transportation Infrastructure Act, 2026*) to the *Development Charges Act, 1997* (DCA), the *Municipal Act, 2001* (MA), and the *Water and Wastewater Public Corporations Act, 2025* (WWPCA).

MFOA was established in 1989 to represent the interests of municipal finance professionals across the province. Our membership includes more than 4,500 individual members who are responsible for handling the financial affairs of municipalities and are key advisors to councils. Throughout our history, MFOA has been a strong advocate for best practices that encourage long-term financial sustainability in the municipal sector. This letter contains MFOA's commentary on ERO 026-0301, ERO 026-0302, and 26-MMAH009 with respect to proposed legislative changes under Bill 98.

To implement its stated intent, the Province should codify into legislation that it will absorb all residual risk of failure of communal water and wastewater systems where required municipal consent is achieved, whereby in the event of failure the Province would restore the systems to operational compliance and financial sustainability before transferring them to municipalities on agreed upon terms

In the media briefing provided for Bill 98, it was stated that the "legislation would create a new, robust regulatory framework that would facilitate wider use across Ontario, while putting safeguards and provincial backstops in place to ensure they remain safe, financially sustainable and will be properly operated and maintained."[1]

MFOA appreciates the measures taken to ensure communal water systems will be subject to the *Safe Drinking Water Act, 2002* to ensure they meet the same high

[1] Province of Ontario, Ministry of Municipal Affairs and Housing, & Ministry of Transportation. March 30, 2026. "Media Briefing. Building Homes and Improving Transportation Infrastructure Act.

standards that apply to municipal water systems. As drafted, however, Bill 98 does not provide clear "provincial backstops" for communal water and wastewater systems.

Communal water and wastewater systems currently operate in Ontario as shared servicing arrangements that provide potable water and sewage treatment for a highly localized group of properties, typically in small settlement areas or rural developments not connected to municipal systems. These systems are usually privately or condominium-owned and are approved and regulated through provincial instruments, with operational responsibilities assigned to certified operators and long-term responsibilities often documented in Municipal Responsibility Agreements between the owner and the host municipality. Some municipalities, such as those in Frontenac County, support communal systems and have created a dedicated entity to develop and manage them as a strategic servicing option. Others have experienced significant challenges, including technical failures and financial shortfalls that necessitated municipal intervention and have raised concerns about long-term risk (e.g., York Region, Haldimand County, District of Muskoka).

For municipalities, the central concern about communal systems is the risk of their failure and the associated moral hazard. In this context, moral hazard refers to "the risk that an entity will take on more risk because it expects that another party, often government, will absorb some of the losses if things go wrong."[2] Decisions about design, construction, operations, and long-term funding are often made by developers or owners in the private sector, but when systems underperform or fail, municipalities are required to step in as the operator of last resort. Consequently, municipalities wind up inheriting assets that are technically deficient, undercapitalized, of poor condition, and supported by inadequate user rates and reserves, effectively socializing losses stemming from myopic private decisions. Experience with failing or distressed communal systems in York Region and Muskoka District shows that remediation can require significant unplanned capital investment.

Where required municipal consent is achieved, municipalities' ability to manage communal system adoption according to their risk tolerance levels, which reflect the local ability to absorb and manage significant financial risks, will be constrained. Under Bill 98 municipalities will be required to consent to communal systems installed by agents who through moral hazard are incentivized to accept excessive risk because they will not bear the full consequences of system failure.

MFOA recommends that, where communal water and wastewater systems achieve required municipal consent such that municipalities become subject to the risks of moral

[2] Public Safety Canada. "Canada's Critical Infrastructure." Accessed April 24, 2026. Website: https://www.publicsafety.gc.ca/cnt/ntnl-scrt/crtcl-nfrstrctr/cci-iec-en.aspx

hazard, the Province absorb those risks. This could be achieved by amending the *Safe Drinking Water Act, 2002* and related regulations to ensure the Province assumes operational and financial responsibility for failed communal water systems and restores them to a state of financial and operational sustainability before transferring them to municipalities. Similar legislative changes could be made for communal wastewater systems.

To mitigate the potential risks associated with communal water and wastewater systems, and to improve consistency between them and municipal systems, their owners and operators should be subject to not only to the *Safe Drinking Water Act, 2002* but also to municipal standards of infrastructure asset management

While making communal water systems subject to the *Safe Drinking Water Act, 2002* helps ensure they adhere to the same high standards required of municipal water systems, this does not address communal wastewater systems or apply asset management standards to either type of communal system. To mitigate the potential risks of such systems and to set them on par with municipal systems, the Province should extend municipal asset management requirements to communal water and wastewater systems.

Infrastructure asset management planning "is an ongoing and long-term process that allows municipalities to make the best possible investment decisions for their infrastructure assets."[3] Ensuring that municipal asset management planning requirements apply to communal water and wastewater systems would align with international best practices for the ongoing management of these systems and the Province's objective to "ensure they remain safe, financially sustainable and will be properly maintained."

MFOA recommends that the Province require every communal system owner seeking municipal consent to establish an asset management plan modelled on O. Reg. 588/17 (e.g., asset inventories, lifecycle planning, condition assessments, financing strategies), with periodic updates and regulatory oversight. This would ensure more robust and timelier repair and maintenance, asset condition assessment, capital renewal, and risk mitigation. In the event of communal system failure or connection to a municipal system, this would also ensure municipalities have comprehensive asset data and other information to aid with communal system adoption or connection.

[3] Province of Ontario. "Municipal asset management planning." Accessed April 24, 2026. Website: https://www.ontario.ca/page/municipal-asset-management-planning

To ensure that the Annual Repayment Limit (ARL) of municipalities that own a Water Wastewater Public Corporation (WWPC) is not negatively affected by debentures that are not transferable to the WWPC under Bill 98, the Province should amend O. Reg. 403/02 to exclude such debentures and associated repayments from calculation of the ARL

In its submission on Bill 60, MFOA recommended that WWPC ownership "should remain with public entities that are directly accountable to the public and whose primary objective is the creation of public value." Bill 98 codifies this into legislation. MFOA commends the Province on this clarification as our members feel that public ownership and accountability is a critical feature of water and wastewater systems. In its analysis of the crisis of Thames Water in the UK, Baylis and Bevan of the London School of Economics and Political Science argue that while "public ownership is not a panacea… it is a vital starting point from which to build a transparent, equitable, democratic water system."[4]

The legislation also prohibits municipalities from transferring water-wastewater debentures to a WWPC but ensures the WWPC retains the obligation to the municipality for debenture repayment. By clarifying that WWPCs must remit debenture repayment funds to municipalities, this will help ensure credit markets do not react negatively to the creation of WWPCs.

The challenge with this arrangement is that, without further action by the Province, it will impair municipal debt capacity significantly by artificially lowering ARLs, since water-wastewater revenues from which the debentures are to be repaid will accrue to WWPCs instead of municipalities. To correct for this imbalance and to facilitate the intended benefits of the WWPC model, the Province should amend O. Reg. 403/02 to exclude WWPC-supported debt repayments and their related debentures from municipalities' ARL calculations.

The Province should consult with municipalities on the funding and financing structures of WWPCs and clarify its intent when indicating that the WWPC model "will offer a way for municipalities to amortize the cost of needed infrastructure over decades."

[4] Baylis, K., & Bevan, G. (August 1, 2025). "Only public ownership of the water system will solve its crisis." LSE British Politics and Policy. Accessed: April 28, 2026. Website: https://blogs.lse.ac.uk/politicsandpolicy/only-public-ownership-of-the-water-system-will-solve-its-crisis

The Province stated that WWPCs "will offer a way for municipalities to amortize the cost of needed infrastructure over decades,"[5] but the intent of this is unclear and could be implemented in many ways, creating uncertainty and making the WWPC model challenging to evaluate. Municipalities already amortize water and wastewater infrastructure over its lifecycle as per public sector accounting requirements, and they are also able to and often do spread the costs of infrastructure over its lifecycle using debt, subject to a maximum term of 40 years as per the *Municipal Act, 2001*. It should be noted that many assets, not just those for water and wastewater services, have lifecycles exceeding 40 years. To enable them to evaluate the long-term impacts on debt financing, user fees and meeting the demands of growth of shifting to the WWPC model, municipalities would appreciate clarity on the Province's intent for the funding and financing structures of WWPCs.

Provisions of the *Development Charges Act, 1997* (DCA) that grant discounts to or exemptions from development charges (DCs) should be structured and worded so as to ensure they benefit only the intended development

Bill 98 proposes to amend the DCA to exempt non-profit retirement home development from DCs. The new section 4.5 of the DCA specifies that the exemption applies to any part of a building or structure intended for use as a retirement home, as defined under the *Retirement Homes Act, 2010*, and is developed by a non-profit corporation defined under the *Not-for-Profit Corporations Act, 2010* or the *Canada Not-for-Profit Corporations Act*. For eligible development, the exemption will apply as well to any remaining DC instalment that would have otherwise been payable under section 26.1. As proposed, the exemption merely requires the developer to be a non-profit corporation and is silent on whether the retirement home must remain owned by or operated as a non-profit corporation.

Based on the text of the proposed exemption and on Province's public commentary with respect to it, MFOA understands that the intent of the exemption is to increase the supply of non-profit retirement homes in Ontario. Consistent with that understanding, MFOA recommends that the wording of the proposed subsection 4.5(1) be strengthened to clarify that the definition of "non-profit retirement home development" require that the building or structure be developed, owned and operated by a non-profit corporation. This will mitigate the risk of circumvention and better realize the Province's intent to encourage increased supply of non-profit retirement homes.

[5] Province of Ontario, Ministry of Municipal Affairs and Housing, & Ministry of Transportation. March 30, 2026. "Media Briefing. Building Homes and Improving Transportation Infrastructure Act.

DC discounts and exemptions continue to shift growth-related capital costs between types of development

Since Bill 23, the Province has signaled its intention to encourage greater diversity in housing options through significant changes to the DC framework, which now provides DC exemptions for affordable housing, attainable housing, non-profit housing, inclusionary zoning and accessory residential dwelling units and long-term care homes and provides DC discounts for rental housing. The DC exemption proposed by Bill 98 for non-profit retirement homes adds to the growing list of DC exemptions and discounts.

In a letter to the City of London dated June 6, 2025, the Ministry of Municipal Affairs and Housing affirmed that municipalities are not required to fund statutory DC exemptions or discounts. These exemptions and discounts have resulted in significant shortfalls in DC reserve funds, the cost of which necessarily falls onto remaining types of development through increased DC rates. Without assistance from other orders of government to address these shortfalls, municipalities are impelled to recover the shortfalls by levying future DC rates that are higher than they would otherwise be. To avoid this outcome, the Province should fund all DC exemptions and discounts it mandates.

The Province should require that any mandated disclosures of DCs in purchase and sale agreements accurately reflect the actual DCs paid by developers and use standardized language to ensure the purpose of DCs is clearly and accurately conveyed

In its media briefing on Bill 98, the Province announced an upcoming consultation on the disclosure of municipal DCs and other taxes and fees in agreements of purchase and sale for new homes. While MFOA supports transparency and accountability to the public about DCs, it has concerns about unsubstantiated narratives of the relationship between DCs and housing prices, especially if the disclosures omit other costs of housing production such as those for land, materials and labour.

The example given in the provincial briefing assumes a one-one relationship between DCs and housing prices, however, these prices are market-driven. Economists David Amborski and Mike Moffatt have recently stated that DC reductions do not automatically translate into savings, much less commensurately, for homebuyers. Amborski noted that, “whether developers end up passing reduced (DC) costs on to homebuyers will

depend on the state of the market when policy is enacted".[6] Similarly, Moffatt wrote that, "most important caveat is the assumption that the seller of the home will pass the savings along to homebuyers. After all, if a builder could sell a home for $730,000, why would they choose to accept less?"[7] Dr. Moffatt did convey a belief that pressure in the resale market would result in the full savings being passed on to the homeowner, but there are no assurances because housing prices are market driven.

While municipalities have reduced DCs in recent years due to legislative changes or their own initiatives, housing prices have remained steady or risen. It is by no means clear that further reductions in DCs will lead to commensurate savings for homebuyers when no such savings from prior reductions have been substantiated.

MFOA recommends that municipalities be thoroughly consulted on the development of any framework for mandated DC disclosures in agreements of purchase and sale of new homes. This will help ensure the disclosures are accurate and help prevent them from containing misconceptions about the relationship between DCs and housing prices. To that end, MFOA is more than willing to participate in such consultations.

MFOA would be pleased to elaborate on any of the recommendations included in this submission. Should your staff have the need to follow up, please contact MFOA's Executive Director, Donna Herridge, by phone (416-362-9001) or by email (donna@mfoa.on.ca).

Yours truly,

Dr. Adam Found, PhD, PLE
President and Chair, MFOA

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[6] Quote from Lord, S. (2026, Mar 30). Feds, Ontario pool $8.8B for housing infrastructure to cut development fees, The Bay Today. https://www.baytoday.ca/national-news/feds-ontario-pool-88b-for-housing-infrastructure-to-cut-development-fees-12075027

[7] Moffat, M. (2026, Apr 13). Recent changes will lower new home costs by 15 to 20% – but only temporarily, Globe and Mail. https://www.theglobeandmail.com/investing/personal-finance/article-housing-home-costs-ontario-tax-development/