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More Homes for Everyone Act, 2022 Staff Report to Council

Report Number: 2022-25

Department(s): Planning and Building Services

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Meeting Date: April 19, 2022

Recommendations

1. That the report entitled More Homes for Everyone Act, 2022 dated April 19, 2022 be received; and,
2. That the report entitled More Homes for Everyone Act, 2022 dated April 19, 2022 be submitted to the Ministry of Municipal Affairs and Housing as input; and,
3. That the Ministry of Municipal Affairs and Housing be requested to extend the consultation period to allow for meaningful consultation with local municipalities; and,
4. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Purpose

The purpose of this report is to provide Council with a brief overview of the major changes to the *Planning Act* proposed under the *More Homes for Everyone Act, 2022* (Bill 109) and to seek Council's direction to submit comments to the Ministry of Municipal Affairs and Housing by the commenting deadline on April 29, 2022.

Background

On March 30, 2022, the Province of Ontario (the Province) released [Bill 109: the More Homes for Everyone Act, 2022 \(Bill 109\)](#). Bill 109 proposes changes to a number of legislations including [Planning Act](#), [City of Toronto Act, 2006](#), [Development Charges Act, 1997](#), [New Homes Construction Licensing Act, 2017](#), and [the Ontario New Home](#)

[Warranties Plan Act](#). In addition, the Province also posted a number of related matters for consultation on the Environmental Registry such as [opportunities to increase missing middle housing and gentle density](#) and [proposed guidelines for the Community Infrastructure and Housing Accelerator](#) (CIHA). The Province is accepting public input on Bill 109 until April 29, 2022, providing a 30-day commenting period.

Discussion

For the purpose of this report, discussion will focus on changes proposed to the *Planning Act* only. Given the Province only provided a 30-day commenting period, there is insufficient time for staff to conduct a comprehensive in-depth review of Bill 109. The subsections below summarize the *Planning Act* changes proposed in Bill 109 and staff’s preliminary comments.

Refunds to Applicants if Decisions are Not Made within Statutory Timelines

Municipalities would be required to refund some or all of the application fees to the applicant if decisions are not made within the legislated timelines. This would apply to Zoning By-law Amendment (stand alone or combined with an Official Plan Amendment) and Site Plan applications made on or after January 1, 2023. The amount of refunds increase based on time elapsed since the application is deemed complete. These proposed refunds are listed in Table 1 below:

Figure 1 Refund of Application Fees

	No refund	50% Refund	75% Refund	100% Refund
Zoning tied with an OPA	Within 120 days	121-179 days	180-239 days	240 days or more
Zoning	Within 90 days	91-149 days	150-209 days	210 days or more
Site Plan	Within 60 days	61-89 days	90-119 days	120 days or more

Staff are concerned that external factors such as external agency review time/resources and applicant’s response time could significantly impact processing time, all of which are beyond the municipality’s control. Refunding application fees due to external factors that are beyond the municipality’s control is not fair and would have financial impact to the municipality. Furthermore, the location and complexity of a development proposal can also greatly impact the amount of time required to conduct a thorough review. This may also limit meaningful public consultation opportunity and the time available for applicants to address local priorities and comments.

Community Infrastructure and Housing Accelerator (CIHA)

Community Infrastructure and Housing Accelerator (CIHA) is a new tool for municipalities to request the Minister to make zoning orders outside of the Greenbelt area. A CIHA order can be used to regulate the use of land and the location, use, height, size and spacing of buildings and structures for the following types of development:

- Community infrastructure that is subject to *Planning Act* approval;
- Any type of housing, including community housing, affordable housing and market-based housing;
- Buildings that would facilitate employment and economic development, and
- Mixed-use developments.

In issuing a CIHA order, the Minister is able to provide an exemption for other necessary planning-related approvals from provincial plans, the Provincial Policy Statement and municipal official plans, but only if this is specifically requested by the municipality. The Minister may also impose conditions on the municipality and/or the proponent. This tool is very similar to the existing Minister Zoning Order, but it is intended to provide more transparency such as prior to Council making a resolution requesting the Minister to issue the zoning order using the CIHA, the municipality must give notice to the public and consult with appropriate persons and public bodies. The existing Minister Zoning Order remain unchanged and the Minister can continue to make zoning orders without a request of municipalities.

This appears to be a tool that can expedite certain types of developments, but more details on the review process and timing should be provided in the [draft CIHA Guideline](#) for municipalities to better understand this new tool. The CIHA Guideline needs to be in effect before the CIHA becomes available.

Delegation of Site Plan Approval to Staff and Extended Site Plan Review Timeline

Municipalities would be required to delegate decisions on site plan applications to staff for applications made on or after July 1, 2022. Currently, the *Planning Act* provides municipalities with the option to delegate Site Plan approval authority to staff. Many municipalities, including Newmarket, have already exercised the delegated authority. The proposed change does not appear to have any major impact to the overall Site Plan approval process, but it may have implications on the role of the Site Plan Review Committee.

Unlike Official Plan and Zoning By-law Amendment applications, the *Planning Act* does not require deeming a Site Plan application complete before circulation. Bill 109 proposes to introduce a complete application process, similar to what is currently applied to Official Plan Amendment and Zoning By-law Amendment, to Site Plan applications. Although not legislated, Planning staff do apply the same complete application process to Site Plan applications to ensure all required materials are

submitted prior to circulation. Staff support this change, which will formalize the Town's current practice. In addition, applicants currently may appeal a non-decision on a Site Plan application 30 days after the application is submitted to the municipality (regardless of whether the municipality has all materials required). The proposed change is to extend the review period to 60 days and it begins from the date the application is deemed complete.

Staff support applying the complete application process to Site Plan applications to help with the review and administration of Site Plan applications. However, a 60-day review period is inadequate to allow sufficient time for proper review in most situations. Newmarket is transforming from mostly greenfield developments to infill redevelopments and high-rise developments, and these types of developments are often more complex in nature and typically would involve detailed technical reports that require careful review from all commenting departments and external agencies. A 60-day review period combined with the proposed refund structure is a significant concern.

Plans of Subdivision

The approval authority for plans of subdivision will have a one-time discretionary authority to reinstate draft plans of subdivision that have lapsed within the past five years. Staff support this change as it is more effective administratively.

The Ministry may prescribe what cannot be required as a condition of subdivision approval, but it is unclear what those may be. Further information from the Province is required.

Community Benefits Charge and Tiered Alternative Parkland Dedication Rate for Transit-Oriented Communities

Municipalities with a Community Benefits Charge (CBC) by-law would be required to undertake a review, including public consultation, on the CBC by-law at least once every five years to determine if a revision is required to keep current with community needs. If the municipality does not pass a resolution declaring whether a revision is needed within every five years, the CBC by-law expires.

Development within Transit-Oriented Communities (TOCs) defined under the [Transit-Oriented Communities Act, 2020](#) will be subject to the following alternative maximum parkland dedication rates:

- For sites less than or equal to five hectares, parkland would be dedicated up to 10% of the land or its value,
- For sites greater than five hectares, parkland would be dedicated up to 15% of the land or its value.

The above alternative maximum parkland dedication rates do not appear to apply to Newmarket since Newmarket does not have any project listed under the *Transit-Oriented Communities Act* at this time. Only developments that are associated with

“priority transit projects” as defined by the *Transit-Oriented Communities Act* would be affected by these rates. “Priority transit projects” currently include subway projects in the City of Toronto and York Region. However, “priority transit projects” also includes “any other provincial transit project prescribed by the regulations”; therefore, it is possible that other projects may be added in the future.

Conclusion

The Province is seeking input on Bill 109 until April 29, 2022. Due to the short consultation period, staff are unable to conduct a comprehensive review of all the changes proposed under Bill 109. Preliminary comments have been included in this report, but staff recommend that the Province should extend the consultation period to allow more meaningful engagement with municipalities.

Business Plan and Strategic Plan Linkages

None

Consultation

None

Human Resource Considerations

None

Budget Impact

None

Attachments

None

Submitted by

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Approved for Submission

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