



REPORT

TO: Mayor Bonnette and Members of Council

FROM: Jeff Markowiak, Director of Development Review

DATE: April 25, 2022

REPORT NO.: PD-2022-0031

SUBJECT: Bill 109, More Homes for Everyone Act – Comments

RECOMMENDATION:

THAT Report No. PD-2022-0031, dated April 25, 2022, regarding “Bill 109, More Homes for Everyone Act – Comments”, be received for information.

KEY POINTS:

The following are key points for consideration with respect to this report:

- Introduced by the Province on March 30th, Bill 109: the More Homes for Everyone Act, received Royal Assent on April 14, 2022.
- Five Acts are amended as a result of Bill 109; this report focuses on the amendments to the *Planning Act* and *Development Charges Act*.
- Key changes as a result of Bill 109 covered in this report pertain to: the refund of planning application fees if decisions are not made by a municipality within certain timeframes; amendments to the types of conditions that can be imposed through Draft Plan of Subdivision approval; establishment of a new Ministerial zoning tool referred to as the Community Infrastructure and Housing Accelerator; and, the Minister now has the authority to refer Official Plans to the OLT for a recommendation or decision.
- This report provides staff comments on the Bill 109 amendments that have implications for the Town of Halton Hills.

BACKGROUND AND DISCUSSION:

Partially in response to the Ontario Housing Affordability Task Force report released on February 8, 2022, the Province introduced Bill 109: the More Homes for Everyone Act, on March 30th. Bill 109 received Royal Assent on April 14, 2022, and is now law.

Five Acts are amended as a result of Bill 109: *City of Toronto Act, 2006*; *Development Charges Act, 1997*; *New Home Construction Licensing Act, 2017*; *Ontario New Home Warranties Plan Act*; and the *Planning Act*. Some of the changes are immediately in force while others will not come in to force until July 1, 2022, or January 1, 2023.

This report provides a summary of the applicable amendments and staff commentary regarding some of the more impactful items. The report focuses on the amendments made to the *Planning Act* and *Development Charges Act*, as the changes to those two Acts are most relevant to the Town of Halton Hills.

1. Mandatory Refund of Planning Application Fees

The most impactful amendment in Bill 109 from a local municipality perspective is the mandatory refund of Zoning By-law Amendment and Site Plan application fees if a municipality fails to make a decision on an application within the statutory timeframes. The required refund is established on a graduated schedule over time, up to 100% of the original submitted amount. The table below summarizes the statutory graduated refund timelines:

	No Refund	50% Refund	75% Refund	100% Refund
ZBA	Decision made within 90 days	Decision made within 91 to 149 days	Decision made within 150 and 209 days	Decision made 210 days or later
Combined OPA/ZBA*	Decision made within 120 days	Decision made within 121 and 179 days	Decision made within 180 and 239 days	Decision made 240 days or later
Site Plan	Decision made within 60 days	Decision made within 61 and 89 days	Decision made within 90 and 119 days	Decision made 120 days or later

* Only the ZBA fees are subject to a refund for combined OPA/ZBA applications

The 'clock' on the timeframe in which a municipality needs to make a decision on an application does not start running until the application has been deemed complete by staff (municipalities have 30 days to deem an application complete/incomplete after submission; that status can be appealed by the applicant to the OLT). The refund requirements will apply to all new Zoning By-law Amendment and Site Plan applications submitted on or after January 1, 2023. This amendment does not appear to affect any other *Planning Act* fees such as subdivision, part lot control or condominium, etc.

Staff Comments:

The Town's planning application fee regime has been established to recover approximately 70% of the Town's staffing resource costs to process and review development applications. If any amount of these fees is required to be refunded back

to an applicant it will have substantial financial implications to the municipality as any fee shortfall will need to be funded from the Town's property tax base.

The refund timelines start once an application has been deemed complete; therefore, an even more stringent practice on deeming applications complete is likely to become necessary. This may include the need for the Town to establish terms of references that all submitted reports and drawings must address to deem submission materials acceptable because there will not likely be sufficient time to complete multiple reviews for applications. The changes also may require a more targeted review of applications to occur, and external agencies will need to provide comments in a more expedient time frame.

It would appear the mandatory refund policy is intended to try and induce municipalities to issue approvals for Zoning By-law Amendments and Site Plan more quickly. However, staff questions whether the Bill 109 changes will achieve the intended outcome. The changes will provide less time for staff to review applications and for applicants to respond to unresolved issues, which will reduce the ability for staff and applicants to work together to resolve matters. This may result in municipalities refusing a greater number of applications, leading to more OLT hearings and the likely delay of possible approvals.

A working group has been established amongst the Halton Region municipal Development Review directors to develop an action plan on how best to adapt the development review process to respond to the Bill 109 amendment.

2. Community Infrastructure and Housing Accelerator

A new "Community Infrastructure and Housing Accelerator" tool has been established through Bill 109 that would allow a Municipal Council to request the Minister of Municipal Affairs and Housing to issue a Ministerial decision (similar to a Ministerial Zoning Order (MZO)) on a land use matter. In issuing a decision for any zoning order under this tool the Minister does not need to consider the Provincial Policy Statement, other provincial plan or an upper or lower-tier municipal Official Plan.

This new tool will not come into effect until the Minister publishes guidelines for its use; the guidelines were out for comment until April 29, 2022. While the guidelines will provide more detail, certain requirements for the tool have already been established:

- it is intended for a range of developments to be subject to the tool, including housing, employment and mixed-use;
- the new power cannot apply to any lands within the Greenbelt;
- public consultation will be required as the municipality considers appropriate;
- the Minister can impose conditions and require agreements to be entered into as part of the decision; and
- the Minister can also dictate that the above-mentioned policy documents cannot be applied to the issuance of any subsequent approvals required to implement the Ministerial decision (ie. Site Plan approval, Site Alteration, etc.).

This new tool does not replace or eliminate the current Ministerial Zoning Order (MZO) powers available to the Minister, which can be exercised without the request of a Municipal Council.

Staff Comments:

This new tool seems to expand and codify the practice of granting Ministerial Zoning Orders (MZO). It is anticipated that the current Provincial government may seek to encourage the use of this new tool to facilitate quicker approvals of land use decisions.

3. Draft Plan of Subdivision Changes

The Minister of Municipal Affairs and Housing now has the power to prescribe matters that are not permitted to be imposed as conditions to Draft Plan of Subdivision approval by a municipality. These prescribed matters have not yet been disclosed.

Municipalities may now also deem a Draft Plan of Subdivision approval that lapsed within the past 5 years not to have lapsed (provided the application had not previously been deemed to have lapsed). To qualify the lands must not have been sold by the original proponent during that 5-year period.

Staff Comments:

Presumably the intent to prescribe possible Draft Plan conditions is to standardize the subdivision process across all municipalities. This could possibly have implications to how the Town secures our municipal interests through the subdivision process or delay the timing of when staff may feel comfortable recommending Draft Plan approval. The implications of this amendment will not be fully understood until the Minister releases more information. It should be noted that once a subdivision has obtained Draft Plan approval the developer is allowed to conditionally sell lots to prospective purchasers.

There are not currently any Draft Plan approved subdivisions in Town that have lapsed in the past 5 years that would qualify under this provision.

4. Other Bill 109 Amendments of Interest to the Town

- Site Plan applications are now required to be delegated to staff for a decision; while the Town currently delegates Site Plan approval to staff, the delegation by-law may need to be updated to reflect Bill 109. Complete application requirements have also now been established for Site Plan applications, similar to the requirements already in place for OPA, ZBA and Subdivision applications. This change is to coincide with the refund requirements set out above, as the mandatory decision timeframes don't start 'ticking' until a Site Plan application is deemed complete. The timeframe in which an appeal can be filed for lack of a decision has also been increased from 30 days to 60. Staff will review the current complete application requirements under the Town's Official Plan and ensure that they reflect the updated *Planning Act* framework.

- If the Minister is the approval authority with respect to an Official Plan, the Minister may refer all or part of that Official Plan to the OLT for a decision. The referral can be for a recommendation only or for a decision, at the Minister's discretion. For example, under this provision the Minister would have the authority to refer Regional Council's decision on ROPA 49 (Halton Region's Integrated Growth Management Strategy) to the OLT.
- Where the Minister is the approval authority for an Official Plan, they now have the authority to suspend the 120-day time period for filing a non-decision appeal. This same authority has not been granted to municipalities.
- The Minister has the authority to make regulations regarding appropriate security instruments to be accepted to secure planning obligations. This change is expected to identify demand bonds as an appropriate form of security. The Town has already established a pilot project to accept demand bonds under certain circumstances.
- Once adopted by a municipality, the Community Benefits Charges (CBC) By-law is required to be reviewed every 5 years. If not reviewed, any by-law in place will expire after the 5-year period. Staff will be bringing forward a recommendation report on the Town's new CBC By-law to the July 4, 2022, Council meeting.
- Maximum parkland contributions will be imposed on developable lands that fall within areas identified as "Transit-Oriented Communities" – 10% of the lands or the value of the lands if under 5 hectares; 15% if greater than 5 hectares. Currently no lands within the Town are considered "Transit-Oriented Communities" under the applicable definition. Also, the Minister can declare that any encumbered land (ie. easements, underground utilities) in these areas must be conveyed for parkland and the developer would receive credit for that dedication.
- The Town Treasurer is current required to provide an annual financial statement to Council relating to the Development Charges by-law and applicable reserve fund. Bill 109 requires that Council make this statement available to the public by posting it on the municipal website. It is current Town practice to make this information public by posting on the Council agenda when being considered; the current practice will now be augmented to also post the information on the Town's website as per the amendment's direction.

STRATEGIC PLAN ALIGNMENT:

This report is administrative in nature and does not have an impact on the Town's Strategic Plan.

RELATIONSHIP TO CLIMATE CHANGE:

This report is administrative in nature and does not directly impact or address climate change and the Town's Net Zero target.

PUBLIC ENGAGEMENT:

Public Engagement was not needed as this report is administrative in nature.

INTERNAL CONSULTATION:

The Town Solicitor and appropriate Town staff were consulted in the preparation of this report.

FINANCIAL IMPLICATIONS:

As referenced earlier in this report, refunding planning application fees would have a financial impact to the Town. Planning staff will work in concert with other internal departments to develop a strategy to minimize the potential impacts.

Reviewed and approved by,

John Linhardt, Commissioner of Planning and Development

Chris Mills, Chief Administrative Officer