



Municipality of Port Hope

Staff Report

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Report Title: Bill 109, the More Homes for Everyone Act impacts on the Municipality of Port Hope

Report to: Planning & Development Committee

Date of meeting: May 17, 2022

Report Author:

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Department responsible:

Planning & Development

Report Number: PD-17-22

Recommendation:

Receive for information.

Highlights:

- The Province of Ontario passed Bill 109 – the More Homes for Everyone Act, 2022 to expedite approvals and incent timely decisions, ensure provincial housing policies are implemented and priority projects are expedited and enhance transparency and increase certainty of development costs.
- Effectively changed five separate pieces of existing legislation, most significantly for the municipality changed the Planning Act, impacting municipal decision making, administration and reporting
- Introduction of a fee refund program related to legislated decision making timelines for zoning by-law amendments and site plan control applications.
- Removed the authority for approving Site Plan Control applications from an elected or appointed body and delegated it to staff.

Background:

On March 30, 2022, the provincial government introduced Bill 109, the More Homes for Everyone Act. The Bill was passed by the Legislature and received Royal Assent on April 14, 2022. Schedules 1, 2 and 5 of the bill make changes to the Planning Act, City of Toronto Act, 2006 and the Development Charges Act, 1997 to expedite approvals and incent timely decisions, ensure provincial housing policies are implemented and priority projects are expedited and enhance transparency and increase certainty of development costs.

The following changes were introduced in the new legislation:

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- Provide the Minister of Municipal Affairs and Housing discretionary authority regarding Official Plans and amendments.
 - Establish a new Minister's order-making authority to respond to municipal council resolutions requesting expedited zoning.
 - Require municipalities to gradually refund zoning bylaw amendment application fees if they fail to make a decision on an application within legislated timelines.
 - Significantly alter the site plan control process and introduce to gradually refund site plan control application fees if an approval is not made within legislated timelines.
 - Require municipalities that have passed a development charge by-law, to make this statement available to the public on the website of the municipality.
 - Allow for the reinstatement of lapsed plans of sub-division that have lapsed within five years with no new application.
 - Authority for the Minister of Municipal Affairs and Housing to require public reporting on development applications and approvals.
 - Municipalities with a Community Benefit Charges by-law must complete a review of it ever five years.
 - Introduction of a tiered alternative parkland dedication rate for transit-oriented community development sites.
 - Regulation making authority for the Minister of Municipal Affairs and Housing related to type of surety bonds and other prescribed instruments which may be used to secure agreement obligations in connection with local approval of land use planning matters.
 - Future changes to the New Home Licensing Act (2017) and the Ontario New Home Warranties Plan Act.

Some of these changes as a result of the legislation will have a direct operating impact on the Planning and Development Department and in one case require the delegation of authority from council to staff on site plan control.

Discussion:

The More Homes for Everyone Act most significantly impacts Planning and Development with its changes related to municipally initiated expedited zoning, zoning by-law amendments and site plan control.

The new legislation establishes a new Minister's order-making authority to respond to municipal council resolutions requesting expedited zoning changes and approvals. The tool cannot be used in the Greenbelt Area and requires guidelines governing the scope of how this authority may be used before implemented. The requesting municipality is responsible for providing public notice, undertaking public consultation and ensuring the order is made available to the public.

Provincial plans, the Provincial Policy Statement and municipal official plans do not apply to the Minister's order. In issuing an order, the Minister is able to:

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- provide exemption for other necessary planning related approvals from provincial plans, the Provincial Policy Statement and municipal official plans, if requested by the municipality, and
 - impose conditions on municipality and/or proponent.

Where conditions were imposed, the Minister or the municipality is able to require agreements to be entered into that could be registered on title. The Minister's order would not be subject to appeal. Unless the Municipality was making the resolution on behalf of its own land holdings, inevitably there is the potential for approach by private land holders to seek municipal support and resolution for a Ministry order. Municipal responsibilities for consultation and notification will lead to costs associated with providing these services. As such Staff will bring forward a future report to update to the Land Use Planning Application schedule of the Fees and Charges By-Law to reflect appropriate fees to offset costs.

The Municipality is required to refund zoning bylaw amendment application fees if they fail to make a decision on an application within the following legislated timelines:

- 50% of the fee if the decision is not made within 90 days (or 120 days if concurrent with an official plan amendment application) from the date the municipality received the complete application and fee,
- 75% of the fee if the decision is not made within 150 days (or 180 days if concurrent with an official plan amendment application) from the date the municipality received the complete application and fee, and
- 100% of the fee if the decision is not made within 210 days (or 240 days if concurrent with an official plan amendment application) from the date the municipality received the complete application and fee.

The change to require a gradual refund of zoning bylaw amendment application fees will apply to all applications received on or after January 1, 2023. As the outcomes of last years service delivery review are implemented and staff levels improve, we are positioned to better minimize the refund of fees. Regardless for the 2023 budget the potential impact of fee refunds will have to be considered in the context of overall departmental revenues.

The most significant changes to the planning process are related to site plan control. This new legislation will impact what will deem an application complete, alter staff authority in these matters and impose fee refunds related to decision timelines. This amendment allows the province to pass a regulation that would mandate the required items for a complete site plan application. The content of this regulation has not been released. Upon the release Staff foresee a review of Section C20 of the Municipal Official Plan and the criteria for determining when an application for development will be considered complete. After such a review need for a municipally initiated Official Plan amendment may be required. The municipality, proponents and the public will all benefit from clearly articulated requirements of what is deemed a complete application.

The most significant change requires that site plan control decisions be made by staff (instead of municipal councils or committees of council) and that this will apply to all site

plan applications received on or after July 1, 2022. Staff are currently reviewing all delegated authority related to land-use planning matters and will bring forward recommendations in a future report to delegate the authority for site plan control and the technical decisions necessary to provide that authority to staff.

Finally, there is the extension of site plan control application timelines from 30 to 60 days so that municipalities are required to refund site plan control application fees if an approval is not made within the following legislated timelines:

- 50% of the fee if the decision is not made within 60 days from the date the municipality received the complete application and fee
- 75% of the fee if the decision is not made within 90 days from the date the municipality received the complete application and fee, and
- 100% of the fee if the decision is not made within 120 days from the date the municipality received the complete application and fee.

The change to require a gradual refund of site plan application fees will apply to all applications received on or after January 1, 2023. Similar to the zoning by-law application refund program, staff plan to manage this in the same manner.

Timelines for comments and input from other departments, other levels of government, and agencies along with managing the application process will need to be modified so that it reflects the public's expectations, meets our policies and delivers on the province's requirements.

Fee refunds, new public consultation and notification requirements will require appropriate resources focused on those files at risk of refund if the Municipality hopes to deliver the services on a cost recovery basis. This could lead to future resource requirements, updates to our fees and charges and inevitably will increase the risk for poorer service to the general public, inquiries and other applications.

There are portions of the More Homes for Everyone Act that do not apply to the municipality and thus require no action on our part. There are new reporting responsibilities introduced that the municipality will administer at the direction of the Province.

Financial Considerations:

There is no immediate financial impact on the Municipality as a result of Bill 109. In the 2023 budget revenue considerations will have to be made related to the return of application fees program coming into effect on January 1, 2023.

Communication and Public Engagement:

Staff will have to update the respective land-use planning applications to reflect the new legislation. Any relevant sections of the municipal website will have to be updated to reflect the changes included in Bill 109. Any future public reporting on development applications and approvals will be done at the direction of the Ministry of Municipal Affairs and Housing.

Conclusion:

This report provides an overview of Bill 109, the More Homes for Everyone Act and its impact on the planning and development process in the Municipality of Port Hope. The greatest impacts to Planning and Development will be related to the potential for fee refunds, new responsibilities related to Site Plan Control and the need to review the current fees and introduce new fees if appropriate to ensure that these services are not subsidized by the tax base.

Attachments:

Attachment 1 – Bill 109 – the More Homes for Everyone Act