

The Corporation of the City of Kawartha Lakes
Council Report

Report Number PLAN2019-042

Date: July 16, 2019
Time: 2:00 p.m.
Place: Council Chambers

Ward Community Identifier: All Wards

Title: Information Report on Bill 108: Planning Act and Development Charges Act Changes

Description: Overview of Changes as a Result of Bill 108, the More Homes, More Choice Act and Overview of the 2019 Amendment to the Growth Plan for the Greater Golden Horseshoe

Author and Title: Anna Kalnina, Planner II

Recommendation:

That Report PLAN2019-042, Information Report on Bill 108: Planning Act and Development Charges Act Changes, be received.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

A number of changes have been introduced in 2019, including amendments to 13 statutes as a result of Bill 108, More Homes, More Choice Act, and Amendment 1 to the Growth Plan for the Greater Golden Horseshoe.

The following is an overview of changes that are anticipated to have the most effect on the operations of the Development Services Department.

Rationale:

Bill 108, More Homes, More Choice Act

Bill 108 received Royal Assent on June 6, 2019. The Bill made amendments to 13 statutes:

- Cannabis Control Act, 2017
- Conservation Authorities Act
- Development Charges Act, 1997
- Education Act
- Endangered Species Act, 2007
- Environmental Assessment Act
- Environmental Protection Act
- Labour Relations Act, 1995
- Local Planning Appeal Tribunal Act, 2017
- Occupational Health and Safety Act
- Ontario Heritage Act
- Planning Act
- Workplace Safety and Insurance Act, 1997

The following summary will consider the changes made to the Conservation Authorities Act, Development Charges Act, Endangered Species Act, Local Planning Appeal Tribunal Act, Ontario Heritage Act, and the Planning Act. The Province provides that the purpose of the amendments is to increase the supply of housing by lowering municipal costs imposed on construction, expediting the land use planning appeals process, giving municipal government greater authority over conservation authorities, protecting the environment and cultural heritage, supporting vibrant agricultural sector and protecting employment lands, and protecting the greenbelt.

Conservation Authorities Act

- There is a clarification that the list of specific programs and services that are required to be provided by an authority are prescribed by regulation (i.e. flooding and natural hazards, and where applicable Lake Simcoe Protection Act).

- Conservation Authorities continue to be authorized to provide other programs and services. Where financing by a participating municipality is necessary for a program or service, the municipality and the conservation authority must enter into an agreement in order for the authority to provide the program or service.
- Conservation Authorities are authorized to determine the amounts owned by the City as it relates to programs and services relating to the Clean Water Act, 2006 and Lake Simcoe Protection Act, 2008.

Development Charges Act

- The Act now prescribes the services for which a development charge can be imposed rather than the services for which such a charge cannot be imposed. In particular, only the following services are now development charge-eligible: water, wastewater, electrical power, roads, storm water management, waste diversion, transit, police, fire, ambulance and any others as may be prescribed by regulation. This means the following services provided by the City and required by growth are now development charge-ineligible: library, parks and recreation, housing, administration (typically planning-related studies), airport and municipal law enforcement. Growth-related capital costs for these services are now supposed to be recovered, at least in part, by the new community benefits charges regime added to the Planning Act.
- In the determination of development charges for waste diversion, transit and ambulance services, growth-related capital costs are no longer subject to a mandatory 10% deduction. This has no impact on the other eligible services as they were and are still not subject to the 10% deduction.
- New rules added to the Act grant automatic development charge payment deferrals by development type. Development charge payments for rental housing, non-profit housing and non-residential development are first due upon occupancy as opposed to, typically, building permit issuance, and are to be spread over several years following occupancy.
- New rules added to the Act freeze development charges based on the development charge rates in effect at the time of development application under the Planning Act rather than time of building permit issuance. The freeze applies for a period not to exceed a specified amount of time that is yet to be prescribed by regulation.
- Secondary residential units, such as basement apartments, granny suites and accessory residential dwellings, are now exempt from development charges, regardless of whether the subject development is entirely new or an expansion of an existing residential development.

Endangered Species Act

- The Minister of Environment, Conservation and Parks is now responsible for administration of the Endangered Species Act (ESA).
- Developers and municipalities now have the ability to pay a regulatory fee into the Species Conservation Fund in lieu of adhering to the ESA's prohibitions on activities as it relates to extirpated, endangered or threatened species. The Species Conservation Fund will fund activities that support species protection or recovery.
- Landscape agreements have been introduced, which authorize a party to carry out activities within a prescribed geographic area which would otherwise be prohibited. In exchange, the party is required to do "specified beneficial actions" that will assist with the protection or recovery of one or more species.
- There are a number of amendments in how species are assessed and classified. The Minister may suspend the protections for up to three years of species that are listed endangered or threatened for the first time.

Local Planning Appeal Tribunal Act

- The Local Planning Appeal Tribunal Act came into force in 2017. The LPAT Act, 2017 introduced a test to prove grounds for appeal being consistency and conformity with provincial and local policies; and a two-step appeal process where municipal decisions that did not pass the test, were sent back to the municipality for an alternative decision. These two processes have been removed, and the former Ontario Municipal Board processes are reinstated. More specifically:
 - Appeals will be evaluated against the criteria of "good planning;" and
 - All hearings will be de novo (considered from the beginning).
- The LPAT now has the power to limit any examination or cross-examination of a witness if the matter has been fully disclosed.
- There continues to be a requirement for a mandatory case management conference.

Ontario Heritage Act

- Municipalities are now required to give the property owners a notice that a property has been listed on a municipal heritage register. The owner may object to Council and Council is obligated to consider the owner's objection. There are no appeal rights to the listing of a property.

- When designating a property under the Act through a by-law, a municipality will need to give a notice to the owners and the public with their right of appeal.
- All heritage related appeals will now be heard by the LPAT, rather than the Conservation Review Board.
- There are also new rules with respect to alterations of heritage properties.

Planning Act

- There are new provisions that authorize a secondary suite within a primary dwelling and within an ancillary building or structure for a total of two additional units.
- Inclusionary zoning is a tool to create more affordable units and, previously, was available to be implemented municipality-wide. As a result of Bill 108, inclusionary zoning is restricted to high-growth areas, including Major Transit Station Areas. There are no Major Transit Station Areas in the City of Kawartha Lakes.
- Planning decision timelines are significantly shortened:
 - Official Plan / Official Plan Amendment – 120 days (previously, 210 days)
 - Zoning By-law Amendment – 90 days (previously, 150 days)
 - Draft Plan of Subdivision – 120 days (previously, 180 days)
- A new community benefits charge regime has been added to replace density bonusing (Section 37 of the Planning Act), parkland dedication and development charges for services Bill 108 made development charge-ineligible. Community benefits charge by-laws and rates must be supported by a community benefits charge strategy (similar to a development charges background study) identifying the facilities, services and matters to be funded by community benefits charges. Unlike development charge rates, which apply to quantity of development, community benefits charge rates are determined as a percentage of land value and will be subject to a maximum percentage prescribed by regulation. Municipalities will be required to spend or allocate (i.e. commit) at least 60% of the funds received in a year's time, and must report their community benefits charge reserve spending on an annual basis. The detailed framework for the community benefits charge regime and the transition thereto is yet to be prescribed by regulation.
- There are new limits to third party appeals of plans of subdivision that include the applicant, municipality, Minister, public body or prescribed

list of persons. Previously, any person or public body had appeal rights.

- There continues to be a two-year freeze on requests for amendments to newly approved secondary plans and comprehensive zoning by-laws.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019

Amendment 1 to the Growth Plan for the Greater Golden Horseshoe took effect on May 16, 2019. The 2019 Growth Plan is a result of consultation with municipal, development and other stakeholders with respect to implementation challenges of the 2017 Growth Plan.

The Province provides that the changes through Amendment 1 are intended to provide greater flexibility and address barriers to building homes, creating jobs, attracting investments and putting in place the right infrastructure while protecting the environment. The 2019 Growth Plan makes amendments in the following areas:

- Intensification and Density Targets
- Agricultural and Natural Heritage Systems
- Settlement Area Boundary Adjustments
- Rural Settlements
- Employment Planning

There were other changes that are not relevant for the City of Kawartha Lakes, which include changes to policies for major transit station areas and new policies for provincially significant employment zones. The following is a summary of changes as it relates to the City of Kawartha Lakes:

Intensification and Density Targets

The 2019 Growth Plan made significant reductions to the minimum target requirements from what was required in the 2017 Growth Plan. However, for the City of Kawartha Lakes, the 2019 Growth Plan prescribes targets that the City has been subject to since 2011. The following table shows the evolution of the targets in the City of Kawartha Lakes.

	2006 Growth Plan	2017 Growth Plan	2019 Growth Plan
Intensification Target (minimum)	<ul style="list-style-type: none"> • By year 2015 and thereafter, 40% of all residential development will be within built-up area • An alternative target may be 	<ul style="list-style-type: none"> • Existing target in the OP applies until the next MCR • 50% of all residential development will be within the delineated built-up 	<ul style="list-style-type: none"> • Improve or maintain the minimum intensification target contained in the Official Plan (being 30%) • An alternative

	2006 Growth Plan	2017 Growth Plan	2019 Growth Plan
	<ul style="list-style-type: none"> requested In 2011, the City requested an alternative target and was approved for 30% 	<ul style="list-style-type: none"> area An alternative target may be requested 	<ul style="list-style-type: none"> target may be requested
DGA Density Target (minimum)	<ul style="list-style-type: none"> 50 residents and jobs/ha An alternative target may be requested In 2011, the City requested an alternative target and was approved for 40 residents and jobs/ha 	<ul style="list-style-type: none"> Existing target in the OP applies until the next MCR Following the MCR, 80 residents and jobs/ha target applies An alternative target may be requested 	<ul style="list-style-type: none"> 40 residents and jobs/ha takes effect at the next MCR An alternative target may be requested

Agricultural and Natural Heritage Systems

Previously, the 2017 Growth Plan required that the provincially mapped Agricultural System and Natural Heritage System be implemented by municipalities immediately following their release in February 2018. The map of the Agricultural System was accompanied by the Implementation Procedures for the Agricultural System in Ontario's Greater Golden Horseshoe document. The document provided how the System is to be implemented and where refinements may occur to the map. The permitted refinements were limited and did not enable the City to resolve errors and discrepancies in the Provincial mapped Systems.

The 2019 Growth Plan recognizes the challenges of implementing mapping that does not form part of the City's Official Plan, and requires that the Systems be applied when they are implemented into the Official Plan. The 2019 Growth Plan also clarifies that the technical changes to the mapping may be requested. There are no new or amended guidance documents, at this time, guiding municipal refinements/technical changes.

Settlement Area Boundary Adjustments

Under the 2017 Growth Plan, the settlement area boundary adjustments were restricted to the MCR process. The 2019 Growth Plan allows the City to make settlement boundary adjustments outside of the MCR under the following two scenarios:

- Where there is no net increase in land (swap areas)
- Settlement area boundary expansion up to 40 hectares

In 2017, Bill 139 introduced the sheltering of New Official Plans from appeals. Settlement area boundary expansions outside of the MCR would be subject to appeals.

The 2017 Growth Plan also required that municipalities identify and de-designate excess lands. Excess lands are defined as lands within the settlement area that are identified for development, but are in excess of what is needed to accommodate forecasted growth to 2041. While the 2019 Growth Plan continues to restrict development on all excess lands, it removes the requirement to de-designate excess lands.

Rural Settlements

A new defined term "rural settlements" has been added as a subset of "settlement areas" that clarifies that rural settlements include existing hamlets or similar existing small settlement areas that are long-established and identified in official plans. "Rural settlements" replaced "undelineated built-up areas" term.

The policies clarify that rural settlements are not part of the designated Greenfield area and therefore, are not subject to density targets. This is a welcomed clarification, as rural settlements are developed at low densities due to their servicing on individual private water and wastewater systems.

The 2019 Growth Plan also introduced the ability to have a minor rounding out of rural areas subject to criteria in the Growth Plan.

Employment Planning

There are a number of changes to the employment planning, some of the more significant changes include:

- Removal of policies/definitions relating to "prime employment" designation, which was introduced by the 2017 Growth Plan as an optional designation for municipalities to use for added protection of employment lands.
- The 2017 Growth Plan required that municipalities develop an employment strategy that assigns one density target for employment areas. The 2019 Growth Plan modified language to permit municipalities to set multiple density targets for employment areas and removed the requirement for an employment strategy.
- Under the 2017 Growth Plan, employment conversions were restricted to the MCR process. The 2019 Growth Plan allows for a one-time conversion where appropriate and subject to criteria.
- The 2019 Growth Plan clarifies that employment areas may be designated at any time ahead of the MCR.

- The 2019 Growth Plan requires that where there is a redevelopment of employment land, that a space is retained for a similar number of jobs.

Financial/Operation Impacts:

Bill 108's amendments to the Development Charges Act will burden the City administratively and financially. Overall, these amendments serve to (i) increase administrative and compliance costs (e.g. management of development charge deferrals over periods of 6-21 years, disputes over land value, increased risk of appeals to the LPAT etc.) and to (ii) shift growth-related capital costs from new development to existing ratepayers. The magnitude of the resulting financial burden to existing ratepayers could be substantial, depending on how the forthcoming regulations structure the community benefits charge regime. At this time, insufficient information exists to estimate this financial burden and determine how negatively it will impact the City's financial health and be reflected in the City's Long-Term Financial Plan. Staff intends to update Council on this matter at an appropriate time in future.

There are no anticipated financial implications to the City with respect to the other legislative and policy changes.

Relationship of Recommendations to the 2016-2019 Strategic Plan:

The Council Adopted Strategic Plan identifies these Strategic Goals:

- A Vibrant and Growing Economy
- An Exceptional Quality of Life
- A Healthy Environment

These provincial initiatives align with a vibrant and growing economy and an exceptional quality of life by facilitating development of housing.

Consultations:

Manager of Corporate Assets

Attachments:

Not applicable.

Department Head E-Mail: cmarshall@kawarthalakes.ca

Department Head: Chris Marshall

Department File: D01