

Bill 109, More Homes for Everyone Act, 2022 - Overview

Council Meeting Presentation

September 27, 2022



Bill 109 Overview

- Bill 109 was introduced on March 30, 2022 and received Royal Assent on April 14, 2022. The Bill made amendments to 5 statutes:
- City of Toronto Act, 2006
- Development Charges Act, 1997
- New Home Construction Licensing Act, 2017
- Ontario New Home Warranties Plan Act
- Planning Act

Major Changes Introduced by Bill 109

The major changes to the *Planning Act* include:

- Requiring municipalities to provide refunds for zoning by-law amendment and site plan application fees where no decision is made during the statutory timeframe
- Introduction of a new ministerial zoning tool, referred to as the Community Infrastructure and Housing Accelerator (“**CIHA**”)
- Established review process for community benefit charge (“**CBC**”) by-laws
- Amendments to parkland requirements on lands designated as Transit-Oriented Communities (“**TOC**”) – Changes do not apply to CKL
- Empowering the Minister with new powers regarding certain official plan amendments (“**OPAs**”) and new official plans
- Empowering the Minister to make regulations for the use of surety bonds as security for conditions imposed by a municipality on planning approvals

Application Fee Refunds

- Changes for zoning by-law amendment and site plan applications require municipalities to refund application fees if a decision is not made within the legislative timelines (90 days for rezoning and 60 days for site plan approval)
- Refunds calculated on a graduated basis (*i.e.* 50%, 75% or 100%) depending on the number of days following the application
- Change will apply to applications made on or after January 1, 2023
- Intent is to expedite the approval process by facilitating faster decisions on applications
- Legislation does not apply to fees collected by other agencies
- Province has indicated that best efforts will be taken to adhere to a 45 day review period
- Staff to review the changes and revised processes to minimize the impact on operations

Site Plan Approval

- Municipal Councils required to delegate site plan control decisions to staff for all applications received on or after July 1, 2022
- Site plan application review timeline extended from 30 days to 60 days, after which an appeal can be filed with the OLT for lack of decision.
- Complete application requirements for site plan applications established, similar to other types of *Planning Act* applications with recourse if the application has not been deemed complete within 30 days of acceptance
- Site plan approval already delegated to the Director of Development Services so no change was required from that perspective
- Staff will review site plan approval process to implement all aspects of the new provisions, including Preconsultation process for site plans and approval delegation by-law

Plans of Subdivision

- Bill 109 permits establishment of a regulation to determine what cannot be required as a condition of draft plan approval
- Requirements will be prescribed by regulation under the *Planning Act*, which has not been released yet
- Changes also permit an approval authority to reinstate draft plans of subdivision that have lapsed within the past five years without a new application provided that there were no land sale agreements under the previous draft approved plan
- Approval authority shall specify a time when the approval lapses
- Provision can only be reinstated once and cannot be extended
- City has already used this provision in one instance

Community Infrastructure and Housing Accelerator

- New section that creates a municipally-initiated type of Minister's order outside of the Ministerial Zoning Order ("**MZO**") under s. 47 of the *Planning Act*
- Permits Minister to make expedited zoning order at the request of the municipality, by Council resolution, which must:
 - Identify the lands to which the order will apply; and
 - Identify the manner the municipality's powers will be exercised with respect to the lands.
- Draft by-law must be included in the resolution
- Municipality must give notice to the public and consult with persons, public bodies and communities as the municipality considers appropriate before passing the resolution

Community Infrastructure and Housing Accelerator – Cont'd

- Municipality forwards resolution to Minister within 15 days of passing, where an order under s. 34 of the *Planning Act* is made
- Order does not have to be consistent with the *Provincial Policy Statement, 2020*, nor does it have to conform, or not conflict, as the case may be, with provincial plans or official plans
- Minister may also prescribe additional persons or public bodies to be notified of the CIHA order and manner in which order is made available to the public
- Order prevails in a conflict with other by-laws passed under s. 34 of the *Planning Act*.
- Draft Guidelines were posted on March 30, 2022

Community Infrastructure and Housing Accelerator – Cont'd

- CIHAs used to regulate land use and the location, height, size and spacing of buildings and structures
- CIHA's allow Minister to expedite certain developments, particularly community housing, affordable housing and market-based housing, buildings that would facilitate employment and economic development and mixed-use developments
- Staff will be working on a Standard Operating Procedure to outline the process and required background information for obtaining a Council Support Resolution for an MZO or a CIHA.

Community Benefit Charge By-law Reviews

- New subsections proposed to the *Planning Act*, as well as the provincial regulation O. Reg. 509/20 regarding Community Benefit Charge By-laws and Parkland dedication, that increase the existing municipal reporting requirements
- CBC By-laws will need a complete a review every five years and subject to public consultation
- City has not yet contemplated Community Benefits Charge By-law

Ministerial Powers Regarding Official Plan Approvals

- Gives Minister new discretionary authority when making decisions on certain OPAs, or new official plans to refer these matters to the Tribunal for recommendation on whether Minister should approve or modify the OPA or new official plan, or for a final decision
- Tribunal may hold a hearing before making its recommendation or rendering its decision
- Official Plans submitted to Minister for approval prior to April 14, 2022, for which no decision has been made can be referred in whole or in part to Tribunal for recommendation or a decision
- Allows Minister to suspend time period in which to decide on all official plan matters subject to Minister's approval (with transition for matters currently before Minister)

Regulation-Making Authority for Use of Surety Bonds

- Once in force, section permits Minister to make regulations prescribing and defining surety bonds and other prescribed instruments
- Will authorize landowners and applicants to stipulate type of surety bond (or other prescribed instrument) to secure obligations imposed by municipality in connection with land use planning approvals
- Ministry expected to consult with municipalities, development industry, and other relevant stakeholders in advance of these changes

Comments

- While the goal of the Ontario Housing Affordability Task Force was in part to simplify planning legislation and policy documents, this legislation does more the opposite by adding to the complexity of the Planning Act and by not addressing any of the issues creating the long development times in Ontario
- Bill 109 says “municipalities do it faster or we will penalize you”
- “Community Infrastructure and Housing Accelerator” appears to be a municipal process to circumvent the Provincial Policy Statement, Growth Plan and the Official Plan policies
- If Province views framework as problematic, more focus needed to eliminate or change policies rather than creating a new process, which places onus on municipalities for these decisions

Comments – Cont'd

- Review of site plans, zoning amendments and official plans is increasingly more complex with issues and circulation requirements
- Bill 109 does not reduce or change the complexity but only reduces the decision-making timeframe and penalizes the municipality if it cannot achieve that standard
- Province expects municipalities to approve increasingly complex applications within a shorter approval timeframes or else the taxpayers will cover the cost of growth
- No onus on outside agencies or Province to meet these timeframes nor is there an onus on development community to respond back within a prescribed timeframe
- Changes are exacerbated by widespread staffing shortages
- Staff will be reviewing legislation changes and recommending new policies and procedures to implement the legislation

Bill 109 Overview

Thank you

Questions?