



Council Report

Report Number:	PLAN2023-001
Meeting Date:	January 31, 2023
Title:	Bill 109 and 23 – Legislative Changes
Description:	Work Plan to Implement Legislative Changes Affecting the City of Kawartha Lakes
Author and Title:	Richard Holy, Director of Development Services

Recommendation:

That Report PLAN2023-001, **Bill 109 and 23 – Legislative Changes**, be received for information.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

Bill 109, the More Homes for Everyone Act, 2022 (“Bill 109”)

Bill 109 was introduced on March 30, 2022 and received Royal Assent on April 14, 2022. The Province’s stated purpose of Bill 109 was to increase the supply of housing by lowering municipal costs imposed on construction and expediting the land use planning appeals process. The Bill made amendments to 5 statutes including the Development Charges Act, 1997 and the Planning Act.

Bill 23, the More Homes Built Faster Act, 2022 (“Bill 23”)

Bill 23, announced on October 25, 2022, and passed on November 28, 2022, is part of the Province of Ontario’s plan to address housing supply and affordability and follows previous initiatives such as Bill 108, the More Homes More Choice Act (2019) and Bill 109, the More Homes for Everyone Act (2022).

Under Bill 23, the Province’s plan is to address the housing crisis by targeting the creation of 1.5 million homes over the next 10 years. To implement this plan, Bill 23 implemented several changes to a total of 10 Acts, including the Planning Act, the Heritage Act, the Development Charges Act, the Ontario Land Tribunal Act and the Conservation Authorities Act. The majority of these changes took effect on November 28, 2022, though some are still awaiting the passing of further regulations from the Province before taking effect.

Rationale:

An overview presentation of Bills 108, 109 and 23 (provided in Appendix A) was received by Council at the Committee of the Whole meeting on January 10, 2023. Appendix B to this report provides a table summarizing key changes in Bill 23, with preliminary impact assessments on the City of Kawartha Lakes. The following assessment highlights a few key topic areas resulting from Bills 109 and 23 and provides a general roadmap for how City Staff intend to address these impacts. Future impact assessments and reporting will only consider the legislative changes made under Bills 109 and 23 that impact the City and will be brought forward by the lead Department.

Development Charges

Generally, the City will be collecting less development charges (DCs) as a result of Bill 23. This is largely because certain “affordable”, “attainable” and “rental” housing developments (as defined by the Province), along with accessory dwellings, will be either fully or partially exempt from the payment of DCs. Any increases to development charges must also be phased in over a 5-year period. Changes to the Development Charges Act also remove housing as well as studies from being eligible for the collection of DCs. Staff are still assessing and attempting to quantify the impacts of these changes and will report back to Council in Q2 2023.

Parkland Dedication

The City will be collecting less parkland or cash-in-lieu of parkland through the development approvals as a result of changes to the parkland dedication rates identified in the Planning Act. These lower rates may negatively impact the quality of life experienced by residents. The City must also prepare a Parks Master Plan prior to updating or preparing a new Parkland Dedication By-Law. City Staff will report back with an updated parkland dedication by-law after the Parks Master Plan has been completed.

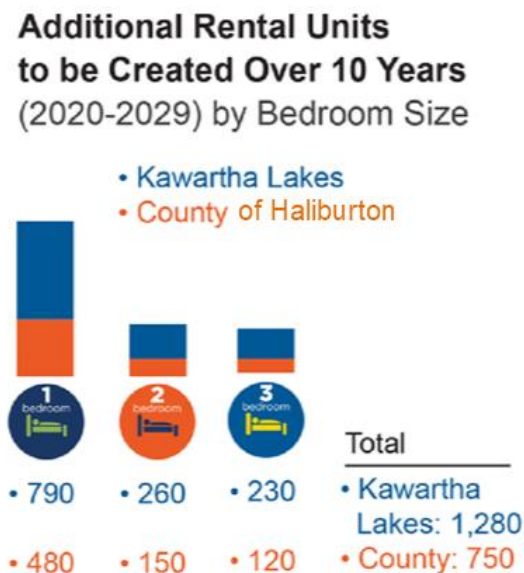
Heritage Designation

Changes to the Heritage Act will substantially challenge the City’s ability to protect and conserve its heritage resources. The majority of these changes came into effect on January 1, 2023; additional amendments which are to be prescribed by regulations that have not yet been released will likely come into effect later in 2023. The most substantial changes coming out of the amendments are limitations regarding the listing of properties on the City’s Heritage Register. Municipalities are now required to review their Registers and designate their listed properties, or remove them from the Register. Properties removed from the Register will then be limited from receiving future heritage protection, particularly in relation to Planning Act applications. This work must be completed within 2 years of the amendments coming into effect. The resources required to process designations means that the City will need to prioritize which properties should be designated. Staff will report back to Council on a strategy to prioritizing properties for designation by the end of Q1. Staff will also begin bringing listed properties forward to Council for designation by the end of Q1 and throughout 2023.

Housing Policy

As the City tries to address the affordable housing crisis through the realization of the Affordable Housing Targets established in the 10 Year Housing and Homelessness Plan (see figure 1), further changes in strategy will now be required due to the impacts of Bill 23.

Figure 1:



Historically, the City has offered a Development Charge exemption for affordable housing units. This has been the most significant incentive that the City has consistently provided to these units. Bill 23 now allows Development Charge exemptions as-of-right for any affordable housing unit. The City will be reviewing it's Affordable Housing Target Program later this year to explore other incentives that can be offered to encourage affordable housing development. Even with the Bill 23 provisions to exempt Development Charges for affordable housing, we have experienced that this is typically not enough of an incentive to see affordable housing built by private developers.

Just very recently, the City started making use of Development Charge revenue to fund 16% (net of grants and housing disposition proceeds) of affordable housing projects. KLH Housing Corporation's current project under construction in Lindsay is able to receive over \$2.3 million dollars from this important funding source. Given rising construction costs and financing rates, capital contributions like this provided some relief. Alternate forms of capital contribution, likely primarily sourced through municipal

tax-levy funds, will need to be available to support future projects in order to make them viable or enticing by private developers. Much work is happening during 2023 by staff to determine what the cost implications are for the municipality to achieve the Affordable Housing Targets. A future Council report will be brought forward by end of Q2 2023 to explore these options and necessary decisions.

Finally, over the coming months, staff will be exploring the need to update By-Law 2018-057, with respect to opportunities to align our current affordable housing definition with the definition of Bill 23. At that time, staff will provide the appropriate rationale to Council on the need to potentially make this change.

Refunding of Planning Application Fees

As a result of Bill 109 changes to the approval process for zoning by-law amendment and site plan applications, municipalities will now required to refund application fees if a decision is not made within the legislative timelines. MMAH has publicly stated that this date will be extended from January 1, 2023 to July 1, 2023. Refunds will be calculated on a graduated basis (i.e. 50%, 75% or 100%) depending on the number of days following the application.

Amount of Refund	Type of Application		
	OPA and Zoning Combined	Zoning	Site Plan
No Refund	Decision made within 120 days	Decision made within 90 days	Plans are approved within 60 days
50%	Decision made between 121 and 179 days	Decision made between 91 and 149 days	Plans are approved between 61 and 89 days
75%	Decision made between 180 and 239 days	Decision made between 150 and 209 days	Plans are approved between 90 and 119 days
100%	Decision made 240 days or later	Decision made 210 days or later	Plans are approved 120 days or later

The stated intent of these changes is to expedite the approval process by facilitating faster decisions on applications; however, notwithstanding workloads and staffing issues, it is virtually impossible to meet these timeframes for a number of reasons. The City cannot control the agency response times, the public consultation process, nor can it control the applicant's response times to agency comments. However, Staff will be reviewing the changes and developing the necessary policies and processes, including an updated pre-consultation process and a definition of a complete application to minimize the impact on operations.

Review Processes for Ministerial Zoning Order ("MZO") and Community Infrastructure and Housing Accelerator ("CIHA") Requests

The City has received a number of requests from various developers seeking Council support for Ministerial Zoning Orders for lands both within and outside of designated settlement areas. Furthermore, Bill 109 amended the Planning Act to include a new zoning tool allowing municipalities to request the Minister for an expedited zoning order for housing or economic stimulator projects.

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 City-initiated CIHA and bring this forward in Q2 2023.

Site Plan Control

As a result of Bill 23, site plan control no longer applies to residential developments of 10 units or less, while for developments to which it would apply, the Planning Act has been amended to remove architectural details and landscape design aesthetics from the scope of site plan control. This may negatively impact the City's ability to achieve a higher level of design in certain areas, such as in its downtowns and main streets. However, design considerations can still be applied within a Community Planning Permit System (CPPS), and Staff will further assess the benefits of a CPPS in certain areas of the City and report back to Council in Q3 or Q4 2023.

Bill 23 also introduced changes to the Planning Act allowing for a prescribed Preconsultation process similar to that used for other applications. This presents an opportunity to review our process for site plan approval to implement all aspects of the new provisions and updating the site plan control by-law. This review will be presented to Council in Q2 2023.

Alignment to Strategic Priorities

The Council Adopted Strategic Plan identifies these Strategic Priorities:

1. Healthy Environment
2. An Exceptional Quality of Life
3. A Vibrant and Growing Economy
4. Good Government

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

Financial/Operation Impacts:

Bill 109 and 23 are likely to result in substantial financial impacts to the City, largely because of less development charges and parkland that will be collected during the development approvals process. Application fees need to be refunded if rezoning and site applications are not processed within the required timeframes. City Staff will attempt to quantify these impacts as part of each report back to Council.

Consultations:

Staff will be liaising with all relevant internal Departments and the City Solicitor as needed as part of any policy and process changes being developed and brought forward for Council consideration.

Attachments:

Appendix A – Bill 108, 109 and 23 Presentation (January 10, 2023)



20221212 Bills 108
109 and 23 Overview.

Appendix B – Summary of Key Bill 23 Changes and Potential Impacts



Appendix B - Bill 23
impacts.docx

Department Head email: rholy@kawarthalakes.ca

Department Head: Richard Holy, Director of Development Services